

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/75. Meaning of 'near beer premises'.

INTOXICATING LIQUOR (

UPDATE

1-74 Introduction ... Licences for Late Night Refreshment Houses

Material relating to this part has been revised and published under the title LICENSING AND GAMBLING vols 67, 68 (2008).

1. THE LICENSING SYSTEM

(6) NEAR BEER LICENSING IN LONDON

75. Meaning of 'near beer premises'.

Near beer premises are any premises¹, vehicle, vessel or stall used for a business which: (1) consists to a significant degree in: (a) the sale to customers for consumption on the premises of liquid refreshments which include in their trade description any of the following words: beer, lager, pils, shandy, cider, wine, champagne, cocktail, sherry, gin, brandy, whisky, vodka or other words which imply that the liquid refreshment contains or can reasonably be expected to contain alcohol²; or (b) the sale to customers for consumption on the premises of liquid refreshments which consist of any beverage commonly expected to contain alcohol or calculated to represent any alcoholic beverage³; and (2) offers, expressly or by implication, whether on payment of a fee or not, either or both of the following: (a) the provision of companions for customers on the premises⁴; or (b) the provision of live entertainment on the premises⁵.

This does not include any such premises in which the sale to customers for consumption of intoxicating liquor is exempted or saved from the provisions of the Licensing Act 1964⁶ or in respect of which there is in force a licence⁷ during the hours permitted by such licence or, in the case of premises to which a justices' on-licence⁸ applies, until the expiration of 30 minutes after the end of the hours permitted by such licence⁹ (provided that the premises are in use wholly or mainly and bona fide for the purpose authorised by such licence), and does not include any such premises in respect of which there is in force a licence under Part II of the Gaming Act 1968¹⁰.

1 Where near beer premises exist on the date the London Local Authorities Act 1995 Pt IV (ss 14-28) (as amended) comes into force in the borough in which the near beer premises are situated and application for a near beer licence is made in respect of those premises within four weeks of that date, those premises may lawfully continue to be used as near beer premises until the determination or withdrawal of that application and, if an appeal is lodged, until the determination or abandonment of the appeal: s 27.

The London Local Authorities Act 1995 Pt IV applies to the City of Westminster as from the date of commencement (8 January 1996) and to the boroughs of all other participating councils as from the appointed day: s 15. 'Participating council' means the Common Council of the City of London and the council of any

London borough; and 'borough' and 'council' are to be construed accordingly: s 2 (amended by the London Local Authorities Act 1996 s 27).

'The appointed day' means such day as may be fixed in relation to a borough by resolution of the borough council, subject to and in accordance with the provisions of the London Local Authorities Act 1995 s 3: s 3(1). Different days may be fixed under s 3 for the purpose of the application of different provisions of the London Local Authorities Act 1995 to a borough: s 3(2). The borough council must cause to be published in a local newspaper circulating in the borough notice of the passing of any such resolution and of the day fixed thereby, and of the general effect of the provisions of the London Local Authorities Act 1995 coming into operation as from that day, and the day so fixed must not be earlier than the expiration of three months from the publication of the said notice: s 3(3). Either a photostatic or other reproduction certified by the officer appointed for that purpose by the borough council to be a true reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice is evidence of the publication of the notice, and of the date of publication: s 3(4).

2 Ibid s 14(a)(i). See also the London Local Authorities Act 2000 s 29(1), (2).

As from a day to be appointed, the Licensing Act 1964 and related enactments are repealed by the Licensing Act 2003: see LICENSING AND GAMBLING. As to the licensing system under the Licensing Act 2003 see LICENSING AND GAMBLING. As to transitional provisions and savings see LICENSING AND GAMBLING.

3 London Local Authorities Act 1995 s 14(a)(ii).

4 Ibid s 14(b)(i).

5 Ibid s 14(b)(ii). As from a day to be appointed, this definition is amended so that 'near beer premises' means any premises, vehicle, vessel or stall used for a business which: (1) consists to a significant degree in: (a) the sale to customers for consumption on the premises of liquid refreshments which include in their trade description any of the following words: beer, lager, pils, shandy, cider, wine, champagne, cocktail, sherry, gin, brandy, whisky, vodka or other words which imply that the liquid refreshment contains or can reasonably be expected to contain alcohol; or (b) the sale to customers for consumption on the premises of liquid refreshments which consist of any beverage commonly expected to contain alcohol or calculated to represent any alcoholic beverage; and (2) offers, expressly or by implication, whether on payment of a fee or not, either or both of the following: (a) the provision of companions for customers on the premises; or (b) the provision of live entertainment on the premises; but does not include any such premises in which the sale to customers for consumption of alcohol is not a licensable activity under or by virtue of the Licensing Act 2003 s 173 (see LICENSING AND GAMBLING vol 67 (2008) PARA 28) or in respect of which there is in force: (i) a premises licence under Pt 3 (ss 11-59) (see LICENSING AND GAMBLING vol 67 (2008) PARA 53 et seq) which authorises the supply of alcohol (within the meaning of s 14: see LICENSING AND GAMBLING vol 67 (2008) PARA 53) for consumption on the premises; (ii) a licence granted by the council under the Greater London Council (General Powers) Act 1966 s 21 (licensing of public exhibitions, etc) or a premises licence granted under the Licensing Act 2003 Pt 3 which authorises the provision of any form of regulated entertainment (within the meaning of Sch 1: see LICENSING AND GAMBLING vol 67 (2008) PARA 31); (iii) a temporary event notice under the Licensing Act 2003, by virtue of which the premises may be used for the supply of alcohol (within the meaning of s 14: see LICENSING AND GAMBLING vol 67 (2008) PARA 53), during the hours permitted by such licence or notice provided that the premises are in use wholly or mainly and bona fide for the purpose authorised by such licence or notice; nor does it include any such premises in respect of which there is in force a licence under the Gaming Act 1968 Pt II (ss 9-25) (as amended): London Local Authorities Act 1995 s 14 (prospectively amended by the Licensing Act 2003 ss 198, 199, Sch 6 para 113, Sch 7). At the date at which this volume states the law, no such day had been appointed. See further LICENSING AND GAMBLING.

6 Ie by virtue of the Licensing Act 1964 s 199 (as amended).

7 The licences referred to in the text are: (1) a justices' on-licence within the meaning of the Licensing Act 1964 s 1(2) (as amended); (2) a licence granted by the council under the London Government Act 1963 s 52, Sch 12 (as amended; prospectively repealed by the Licensing Act 2003 Sch 7) (see LONDON GOVERNMENT), the Greater London Council (General Powers) Act 1966 s 21 (as amended; prospectively amended by the Licensing Act 2003 Sch 6 paras 34, 35) (licensing of public exhibitions) (see LONDON GOVERNMENT) or the Private Places of Entertainment (Licensing) Act 1967 (prospectively repealed by the Licensing Act 2003 Sch 7) (see LICENSING AND GAMBLING); (3) a licence granted by the council under the Theatres Act 1968 for the performance of plays (see LICENSING AND GAMBLING); (4) a licence granted by the council under the Cinemas Act 1985 (prospectively repealed by the Licensing Act 2003 Sch 6 para 95, Sch 7) (see LICENSING AND GAMBLING); (5) a licence granted by licensing justices under the Licensing Act 1964 s 148 (as amended) (licences for seamen's canteens authorising the holding of retailer's on-licences); (6) a permission granted by licensing justices under the Licensing (Occasional Permissions) Act 1983 s 1 (as amended; prospectively repealed by the Licensing Act 2003 Sch 7) (grant of occasional permissions); (7) an occasional licence granted under the Licensing Act 1964 s 180 (as amended) (consent to grant of occasional licence): see the London Local Authorities Act 1995 s 14(A)-(G) (prospectively amended: see note 5 supra).

8 See note 7 head (1) supra.

9 Ibid s 14.

10 Ibid s 14 proviso. The licence referred to in the text is a licence under the Gaming Act 1968 Pt II (as amended).

UPDATE

75 Meaning of 'near beer premises'

TEXT AND NOTES--On the day the London Local Authorities Act 2007 s 33 (hostess bars) comes into force in a borough, the London Local Authorities Act 1995 Pt 4 will cease to have effect as respects that borough: 2007 Act s 35.

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

NOTE 5--All the provisions of the Licensing Act 2003, with the exception of Sch 6 paras 98, 99(c) and the repeal in Sch 7 of the Sporting Events (Control of Alcohol etc) Act 1985 ss 2(1A), 5A, are now in force: SI 2005/2090, SI 2005/3056. For 'nor does it include ... Gaming Act 1968 Pt II (ss 9-25)' read 'nor does it include premises in respect of which a casino premises licence, bingo premises licence, adult gaming centre premises licence, family entertainment centre premises licence or betting premises licence under the Gambling Act 2005 Pt 8 (ss 150-213), or a family entertainment centre gaming permit under s 247: 1995 Act s 14 (amended by the 2005 Act Sch 7 para 10).

NOTE 7--Head (4). Repeals in force: SI 2005/3056.

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76. Licensing.

No premises are to be used in the borough¹ as near beer premises² except under and in accordance with a near beer licence granted by the council³. The council may grant to an applicant, and from time to time renew or transfer, a near beer licence on such terms and conditions and subject to such restrictions as may be specified⁴. Such conditions may relate to: (1) the maintenance of public order and safety⁵; (2) the hours of opening and closing the premises for use as near beer premises to ensure that nuisance is not likely to be caused to residents in the neighbourhood⁶; (3) the display of advertisements on or near the near beer premises and the prohibition of toutting in any form⁷; (4) the display of prices of goods and services offered on the premises⁸; (5) the number of persons who may be allowed to be on the premises at any time⁹; (6) the taking of proper precautions against fire, and the maintenance in proper order of means of escape in case of fire, fire-fighting equipment and means of lighting, sanitation and ventilation of the premises¹⁰; (7) the maintenance in safe condition of means of heating the premises¹¹.

Provided it has not been cancelled or revoked, the near beer licence remains in force for 18 months or such shorter period specified in the near beer licence as the council may think fit¹².

1 As to the meaning of 'borough' see PARA 75 note 1 ante.

2 For the meaning of 'near beer premises' see PARA 75 ante.

3 London Local Authorities Act 1995 s 16(1). As to the meaning of 'council' see PARA 75 note 1 ante. As to the application of Pt IV (ss 14-28) (as amended) to the borough of a participating council see PARA 75 note 1 ante.

4 Ibid s 16(2).

5 Ibid s 16(3)(a).

6 Ibid s 16(3)(b).

7 Ibid s 16(3)(c).

8 Ibid s 16(3)(d).

9 Ibid s 16(3)(e).

10 Ibid s 16(3)(f).

11 Ibid s 16(3)(g).

12 Ibid s 16(4).

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76 Licensing

TEXT AND NOTES 4-11--1995 Act s 16(3A) added: Regulatory Reform (Fire Safety) Order 2005, SI 2005/1541.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/77. Applications for near beer licences.

77. Applications for near beer licences.

The occupier¹ of premises in the borough² may apply for the grant, renewal or transfer of a near beer licence, and must not later than the day the application is made send a copy to the Commissioner³ and a copy to the fire authority⁴ and no such application may be considered by the council⁵ unless the applicant so complies⁶. However, the council may in such cases as it thinks fit, after consulting with the Commissioner and the fire authority, consider an application for the grant, renewal or transfer of a near beer licence notwithstanding that the applicant has failed to comply with the provision described above⁷. In considering any application for the grant, renewal or transfer of a near beer licence, the council must have regard to any observations submitted to it by the Commissioner or by the fire authority within 28 days of the making of the application and may have regard to any observations submitted by him or it thereafter⁸. An applicant for the grant, renewal, transfer or variation of a near beer licence must furnish such particulars and give such other notices, including the public advertisement of the application, as the council may by regulation prescribe⁹. Such regulations may, inter alia, prescribe the procedure for determining applications¹⁰. An applicant for the grant, renewal or transfer of a near beer licence must pay a reasonable fee determined by the council¹¹. Where, before the date of expiry of a near beer licence, an application has been made for its renewal or transfer, the near beer licence is deemed to remain in force or, as the case may require, to have effect with any necessary modifications until the determination of the application by the council or the withdrawal of the application¹².

1 'Occupier' in relation to any premises means an occupier who is the freeholder, or a lessee, or a tenant holding a tenancy of at least one year in duration: London Local Authorities Act 1995 s 14. See also the London Local Authorities Act 2000 s 29.

2 As to the meaning of 'borough' see PARA 75 note 1 ante.

3 'The Commissioner' means the Commissioner of Police of the Metropolis or, in the City of London, the Commissioner of the City Police: London Local Authorities Act 1995 s 2.

4 'The fire authority' means the London Fire and Emergency Planning Authority: *ibid* s 2 (definition amended by the Greater London Authority Act 1999 s 328, Sch 29 Pt II para 69(1), (2)). See FIRE SERVICES vol 18(2) (Reissue) PARA 17.

5 As to the meaning of 'council' see PARA 75 note 1 ante.

6 London Local Authorities Act 1995 s 17(1). As to the application of Pt IV (ss 14-28) (as amended) to the borough of a participating council see PARA 75 note 1 ante. For the modification of the London Local Authorities Act 1995 s 17 in its application to a participating council as defined in the London Local Authorities Act 2000 s 2 (ie the Common Council of the City of London in its capacity as a local authority and the council of any London borough other than Barnet) see s 29(1), (3).

7 London Local Authorities Act 1995 s 17(2).

8 *Ibid* s 17(3).

9 *Ibid* s 17(4).

10 *Ibid* s 17(5).

11 *Ibid* s 17(6).

12 *Ibid* s 17(7).

UPDATE

77 Applications for near beer licences

TEXT AND NOTES 4-8--References to fire authority are now to fire and rescue authority:
1995 Act ss 2, 17 (amended by the Fire and Rescue Services Act 2004 Sch 1 para 86).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/78. Refusal of licence.

78. Refusal of licence.

The council¹ may refuse to grant, renew or transfer a near beer licence on any of the following grounds: (1) the premises are not structurally suitable for the purpose²; (2) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put³; (3) the persons concerned or intended to be concerned in the conduct or management of the premises as a near beer establishment could be reasonably regarded as not being fit and proper persons to hold such a licence⁴; (4) the premises are not provided with satisfactory means of lighting, sanitation and ventilation⁵; (5) the means of heating the premises are not safe⁶; (6) proper precautions against fire on the premises are not being taken⁷; (7) satisfactory means of escape in case of fire and suitable fire-fighting equipment are not provided on the premises⁸; or (8) the applicant has failed to comply with certain requirements⁹.

The council may not refuse an application without giving the applicant an opportunity to appear before the committee or sub-committee determining the application¹⁰. The council may not delegate to an officer its function of refusing an application under Part IV of the London Local Authorities Act 1995¹¹. Where the council refuses to grant, renew or transfer a licence, it must, if required to do so by the applicant or holder of the licence, give him a statement in writing of the reasons for its decision within seven days of his requiring it to do so¹².

1 As to the meaning of 'council' see PARA 75 note 1 ante. As to the application of the London Local Authorities Act 1995 Pt IV (ss 14-28) (as amended) to the borough of a participating council see PARA 75 note 1 ante.

2 Ibid s 18(1)(a).

3 Ibid s 18(1)(b).

4 Ibid s 18(1)(c).

5 Ibid s 18(1)(d).

6 Ibid s 18(1)(e).

7 Ibid s 18(1)(f).

8 Ibid s 18(1)(g).

9 Ibid s 18(1)(h). The requirements referred to in the text are those of s 17(4) or s 17(6) (see PARA 77 ante): see s 18(1)(h).

10 Ibid s 18(2).

11 Ibid s 18(3).

12 Ibid s 18(4).

UPDATE

78 Refusal of licence

TEXT AND NOTES 7, 8--1995 Act s 18(1)(f), (g) substituted: Regulatory Reform (Fire Safety) Order 2005, SI 2005/1541.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/79. Transmission and cancellation of near beer licences.

79. Transmission and cancellation of near beer licences.

In the event of the death of the holder of a near beer licence, the person carrying on at the place in respect of which the near beer licence was granted the function to which the near beer licence relates is deemed to be the holder of the near beer licence unless and until the near beer licence is transferred to some other person¹. The council² may, at the written request of the holder of a near beer licence, cancel the near beer licence³.

1 London Local Authorities Act 1995 s 19(1). As to the application of Pt IV (ss 14-28) (as amended) to the borough of a participating council see PARA 75 note 1 ante.

2 As to the meaning of 'council' see PARA 75 note 1 ante.

3 London Local Authorities Act 1995 s 19(2).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/80. Power to prescribe standard terms, conditions and restrictions.

80. Power to prescribe standard terms, conditions and restrictions.

The council¹ may make regulations prescribing standard conditions applicable to all, or any class of near beer licences, that is to say terms, conditions and restrictions on or subject to which such near beer licences, or near beer licences of that class are in general to be granted, renewed or transferred by it². Where the council have made such regulations, every such near beer licence granted, renewed or transferred by it is deemed to have been so granted, renewed or transferred subject to any applicable standard conditions unless those standard conditions have been expressly excluded or amended³.

1 As to the meaning of 'council' see PARA 75 note 1 ante.

2 London Local Authorities Act 1995 s 20(1). As to the application of Pt IV (ss 14-28) (as amended) to the borough of a participating council see PARA 75 note 1 ante.

3 Ibid s 20(2).

UPDATE

80 Power to prescribe standard terms, conditions and restrictions

TEXT AND NOTES--1995 Act s 20(1A) added: Regulatory Reform (Fire Safety) Order 2005, SI 2005/1541.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/81. Provisional grant of near beer licences.

81. Provisional grant of near beer licences.

Where application is made to the council¹ for the grant of a near beer licence in respect of premises which are to be, or are in the course of being constructed, extended or altered or improved and the council is satisfied that the premises would if completed in accordance with plans or proposals deposited in pursuance of the requirements of the council be such that it would grant the near beer licence, the council may grant the near beer licence subject to a condition that it is of no effect until confirmed by it². The council must, on application being made for the appropriate variation of the near beer licence, confirm any near beer licence granted by virtue of the provision described above if and when it is satisfied that the premises have been completed in accordance with the plans or proposals referred to above or in accordance with those plans or proposals as modified with the approval of the council³.

1 As to the meaning of 'council' see PARA 75 note 1 ante.

2 London Local Authorities Act 1995 s 21(1). As to the application of Pt IV (ss 14-28) (as amended) to the borough of a participating council see PARA 75 note 1 ante.

3 Ibid s 21(2).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/82. Variation of near beer licences.

82. Variation of near beer licences.

The holder of a near beer licence may at any time apply to the council¹ for a variation in the terms, conditions or restrictions on or subject to which the near beer licence is held². The person making an application for such a variation of a licence must on making the application pay to the council such reasonable fee as the council may fix³. The council may make the variation specified in the application⁴, make that variation together with such further variation consequent thereon as the council may determine⁵, or refuse the application⁶. However no such variation relating to fire safety conditions may be made before the fire authority⁷ has been consulted⁸.

1 As to the meaning of 'council' see PARA 75 note 1 ante.

2 London Local Authorities Act 1995 s 22(1). As to the application of Pt IV (ss 14-28) (as amended) to the borough of a participating council see PARA 75 note 1 ante.

3 Ibid s 22(2).

4 Ibid s 22(3)(a).

5 Ibid s 22(3)(b).

6 Ibid s 22(3)(c).

7 For the meaning of 'the fire authority' see PARA 77 note 4 ante.

8 London Local Authorities Act 1995 s 22(3) proviso.

UPDATE

82 Variation of near beer licences

TEXT AND NOTES--1995 Act s 22(4) added: Regulatory Reform (Fire Safety) Order 2005, SI 2005/1541.

TEXT AND NOTES 7, 8--References to fire authority now to fire and rescue authority: 1995 Act s 22(3) (amended by the Fire and Rescue Services Act 2004 Sch 1 para 86).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/83. Appeals.

83. Appeals.

Any of the following persons, namely:

- 1 (1) an applicant for the grant, renewal or transfer of a near beer licence whose application is refused;
- 2 (2) an applicant for the grant, renewal or transfer of a near beer licence who is aggrieved by any term, condition or restriction on or subject to which the near beer licence is granted, renewed or transferred;
- 3 (3) an applicant for the variation of the terms, conditions or restrictions on or subject to which a near beer licence is held whose application is refused;
- 4 (4) an applicant for the variation of the terms, conditions or restrictions on or subject to which a near beer licence is held who is aggrieved by any term, condition or restriction contained in a further variation made consequent on the variation applied for;
- 5 (5) a holder of any such near beer licence whose near beer licence is revoked¹,

may at any time before the expiration of the period of 21 days beginning with the relevant date² appeal to the magistrates' court acting for the petty sessions area in which the premises are situated by way of complaint for an order³. Such an appeal by either party against the decision of the magistrates' court may be brought to the Crown Court⁴. On such an appeal to the magistrates' court or to the Crown Court, the court may make such order as it thinks fit and it is the duty of the council⁵ to give effect to such order⁶.

Where any near beer licence is revoked⁷ or an application for the renewal of such a near beer licence is refused, the near beer licence is deemed to remain in force (a) until the time for bringing an appeal under this provision has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and (b) where an appeal relating to the refusal of an application for such a renewal is successful, until the licence is renewed by the council⁸. Where any near beer licence is renewed⁹ and the council specifies any term, condition or restriction which was not previously specified in relation to that licence, the near beer licence is deemed to be free of it until the time for bringing an appeal under this provision has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal¹⁰. Where the holder of a licence makes an application for the variation of a near beer licence¹¹ and the council makes the variation applied for together with a further variation, then the licence continues as it was before the application until the time for bringing such an appeal against any term, condition or restriction contained in the further variation has expired and, where any such appeal is brought, until the determination or abandonment of the appeal¹².

1 Ie under the London Local Authorities Act 1995 s 24 (prospectively amended) (enforcement under Pt IV (ss 14-28) (as amended): see PARA 84 post): see s 23(1).

2 'The relevant date' means the date on which the person in question is notified in writing of the refusal of his application, the imposition of the terms, conditions or restrictions by which he is aggrieved, or the revocation of his near beer licence, as the case may be: *ibid* s 23(2).

3 *Ibid* s 23(1). As to the application of Pt IV (as amended) to the borough of a participating council see PARA 75 note 1 ante. For the modification of the London Local Authorities Act 1995 s 23 in its application to a participating council as defined in the London Local Authorities Act 2000 s 2 (ie the Common Council of the City of London in its capacity as a local authority and the council of any London borough other than Barnet) see s 29(1), (5).

- 4 London Local Authorities Act 1995 s 23(3).
- 5 As to the meaning of 'council' see PARA 75 note 1 ante.
- 6 London Local Authorities Act 1995 s 23(4).
- 7 le under ibid s 24 (prospectively amended) (see PARA 84 post): see s 23(5).
- 8 Ibid s 23(5).
- 9 le under ibid s 16 (licensing) (see PARA 76 ante): see s 23(6).
- 10 Ibid s 23(6).
- 11 le under ibid s 22 (see PARA 82 ante): see s 23(7).
- 12 Ibid s 23(7).

UPDATE

83-86 Appeals ... Seizure

Certain persons or indorsements mentioned in these paragraphs are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/84. Enforcement.

84. Enforcement.

If any occupier¹ or other person concerned in the conduct or management of premises in the borough² which are not currently licensed by the council³ under Part IV of the London Local Authorities Act 1995⁴ uses them as near beer premises⁵ or permits them to be so used knowing or having reasonable cause to suspect that they are not currently so licensed, he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale⁶ or to imprisonment for a term not exceeding three months, or both⁷. If any premises in respect of which a near beer licence is in force are used as near beer premises otherwise than in accordance with the terms, conditions or restrictions on or subject to which the near beer licence is held, then the holder of the licence or other person concerned in the conduct or management of the premises is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale⁸.

1 For the meaning of 'occupier' see PARA 77 note 1 ante.

2 As to the meaning of 'borough' see PARA 75 note 1 ante.

3 As to the meaning of 'council' see PARA 75 note 1 ante.

4 Ie the London Local Authorities Act 1995 Pt IV (ss 14-28) (as amended).

5 For the meaning of 'near beer premises' see PARA 75 ante.

6 As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS VOL 92 (2010) PARA 142.

7 London Local Authorities Act 1995 s 24(1). As to the application of Pt IV (as amended) to the borough of a participating council see PARA 75 note 1 ante. For the modification of the London Local Authorities Act 1995 s 24 in its application to a participating council as defined in the London Local Authorities Act 2000 s 2 (ie the Common Council of the City of London in its capacity as a local authority and the council of any London borough other than Barnet) see s 29(1), (7).

As from a day to be appointed, the Local Authorities Act 1995 s 24(1) is amended so as to provide for a term of imprisonment not exceeding 51 weeks instead of three months: s 24(1) (prospectively amended by the Criminal Justice Act 2003 ss 280(2), (3), Sch 26 para 46). At the date at which this volume states the law, no such day had been appointed.

8 London Local Authorities Act 1995 s 24(2). Subject to s 23 (appeals under Pt IV (as amended): see PARA 83 ante), the council may revoke a near beer licence if its holder is convicted of an offence under s 24(2): s 24(3).

UPDATE

83-86 Appeals ... Seizure

Certain persons or indorsements mentioned in these paragraphs are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/85. Powers of entry.

85. Powers of entry.

Any authorised officer¹ (on production, if so required, of a duly authenticated document of his authority) or any police officer may at all reasonable times enter upon, inspect and examine any premises used, or which he has reasonable cause to believe are used or intended to be used as a near beer premises² without the requisite near beer licence or used in contravention of the terms, conditions or restrictions on or subject to which a near beer licence is granted; and he may do all things reasonably necessary for the purpose of ascertaining whether an offence has been committed³.

An officer of the fire authority⁴ authorised by the fire authority in writing to act in relation to Part IV of the London Local Authorities Act 1995 may at all reasonable times enter upon, inspect and examine premises which are licensed under Part IV to ascertain whether conditions attached to the licence⁵ are being complied with⁶.

Any person who intentionally obstructs any person acting in the exercise of his powers under these provisions is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale⁷.

1 'Authorised officer' in relation to a borough council means: (1) any employee of the council; (2) any person by whom in pursuance of arrangements made with the council, any functions under the London Local Authorities Act 1995 fall to be discharged; or (3) any employee of any such person, who is authorised in writing by the council to act in relation to the relevant provision of the Act: s 2 (modified by the Local London Authorities Act 2004 s 28, Sch 5). As to the meaning of 'council' see PARA 75 note 1 ante.

2 For the meaning of 'near beer premises' see PARA 75 ante.

3 London Local Authorities Act 1995 s 25(1). The Public Health Act 1936 s 287(2), (3), (4) applies in respect of entry to premises for the purposes of the London Local Authorities Act 1995 s 25(1) as it applies to entry to premises for the purposes of the Public Health Act 1936 s 287(1) (as amended) (see **ENVIRONMENTAL QUALITY AND PUBLIC HEALTH** vol 45 (2010) PARA 114): London Local Authorities Act 1995 s 25(2).

As to the application of Pt IV (ss 14-28) (as amended) to the borough of a participating council see PARA 75 note 1 ante.

4 For the meaning of 'the fire authority' see PARA 77 note 4 ante.

5 Ie by virtue of the London Local Authorities Act 1995 s 16(3)(f) (licensing: see PARA 76 ante): see s 25(3).

6 Ibid s 25(3).

7 Ibid s 25(4). As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142.

UPDATE

83-86 Appeals ... Seizure

Certain persons or indorsements mentioned in these paragraphs are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

85 Powers of entry

TEXT AND NOTES 4-6--References to fire authority now to fire and rescue authority: 1995 Act s 25(3) (amended by the Fire and Rescue Services Act 2004 Sch 1 para 86).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/1. THE LICENSING SYSTEM/ (6) NEAR BEER LICENSING IN LONDON/86. Seizure.

86. Seizure.

Any police officer who enters any premises¹ or any authorised officer² who enters any premises under the authority of a warrant³ may seize and remove any apparatus or equipment or other thing whatsoever found on the premises which he has reasonable cause to believe may be liable to be forfeited⁴.

The following provisions have effect where any apparatus or equipment or any other thing is so seized⁵: (1) subject to head (2) and head (3) below, at the conclusion of the proceedings, the apparatus, equipment or thing must be returned to the premises from which it was seized unless the court orders it to be forfeited under any enactment⁶; (2) if no proceedings are instituted before the expiration of a period of 28 days beginning with the date of seizure, or any proceedings instituted within that period are discontinued, at the expiration of that period or, as the case may be, on the discontinuance of the proceedings, the apparatus, equipment or thing must, subject to head (3) below, be returned to the premises from which it was seized⁷; (3) where, at the time at which any apparatus, equipment or thing falls to be returned under head (1) or head (2) above, the premises from which it was seized have ceased to be occupied or the occupier⁸ of the premises appears to the council⁹ to be different from the person who occupied the premises at the time of seizure, the council may, instead of returning it to the premises apply to a magistrates' court for an order as to the manner in which it should be dealt with¹⁰.

1 Ie by virtue of the powers contained in the London Local Authorities Act 1995 s 25(1) (powers of entry: see PARA 85 ante).

2 For the meaning of 'authorised officer' see PARA 85 note 1 ante.

3 Ie granted under the London Local Authorities Act 1995 s 25(2) (see PARA 85 ante).

4 Ibid s 26(1) (amended by the Powers of Criminal Courts (Sentencing) Act 2000 s 165(1), Sch 9 para 179). As to forfeiture see the Powers of Criminal Courts (Sentencing) Act 2000 s 143 (as amended); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 481.

As to the application of the London Local Authorities Act 1995 Pt IV (ss 14-28) (as amended) to the borough of a participating council see PARA 75 note 1 ante.

5 Ibid s 26(2)(a). References in s 26(2)(b)-(d) to proceedings are references to proceedings in respect of the alleged offence in relation to which the article or thing is seized: s 26(2)(a).

6 Ibid s 26(2)(b).

7 Ibid s 26(2)(c).

8 For the meaning of 'occupier' see PARA 77 note 1 ante.

9 As to the meaning of 'council' see PARA 75 note 1 ante.

10 London Local Authorities Act 1995 s 26(2)(d). As to seizure and retention of property generally see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARAS 869, 873 et seq.

UPDATE

83-86 Appeals ... Seizure

Certain persons or indorsements mentioned in these paragraphs are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

87-161 Licensing of Seaman's Canteens ... The Licensing Act 2003

Material relating to this part has been revised and published under the title LICENSING AND GAMBLING vols 67, 68 (2008).

UPDATE

162-288 Justices' Licences

Material relating to this part has been revised and published under the title LICENSING AND GAMBLING vols 67, 68 (2008).

UPDATE

289-324 Permitted Hours

Material relating to this part has been revised and published under the title LICENSING AND GAMBLING vols 67, 68 (2008).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/2. JUSTICES' LICENCES

2. JUSTICES' LICENCES

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/3.
PERMITTED HOURS

3. PERMITTED HOURS

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/4. OFFENCES AND REGULATION OF LICENSED PREMISES

4. OFFENCES AND REGULATION OF LICENSED PREMISES

UPDATE

325-413 Offences and Regulation of Licensed Premises

Material relating to this part has been revised and published under the title LICENSING AND GAMBLING vols 67, 68 (2008).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(1) ALCOHOLIC LIQUORS GENERALLY/414.
Blending of alcoholic liquors.

5. REGULATION OF MANUFACTURE AND SUPPLY

(1) ALCOHOLIC LIQUORS GENERALLY

414. Blending of alcoholic liquors.

A person must not blend¹ two or more alcoholic liquors: (1) each of which is of any of the following kinds: (a) spirits²; (b) beer³; (c) wine⁴; (d) made-wine⁵; and (e) cider⁶; but (2) not all of which fall within the same one of heads (a) to (e) above, except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises⁷. Nor may a person blend two or more alcoholic liquors which: (i) fall within the same one of heads (a) to (e) above; but (ii) are not all of the same alcoholic strength⁸, except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises⁹.

These provisions¹⁰ do not apply unless the blending is done with a view to offering for sale the liquor which is the product of the blending¹¹, or where the liquor which is the product of the blending is intended for consumption on the premises on which the blending takes place¹².

The Commissioners of Customs and Excise¹³ may direct that these provisions do not apply to the blending of alcoholic liquors in such circumstances as are specified in the direction¹⁴.

Where a person contravenes these provisions, the following are liable to forfeiture: (A) the liquor which is the product of the blending; (B) all such vessels, utensils and materials for the blending of alcoholic liquors as are found in his possession¹⁵.

1 Any reference to blending liquors includes a reference to otherwise mixing them: Alcoholic Liquor Duties Act 1979 s 66A(1) (s 66A added by the Finance Act 1993 s 5(1), (4)).

2 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

3 For the meaning of 'beer' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 401.

4 For the meaning of 'wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 402.

5 For the meaning of 'made-wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 403.

6 For the meaning of 'cider' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 404. The alcoholic liquors referred to in the text are those mentioned in the Alcoholic Liquor Duties Act 1979 s 1(1)(a)-(e): see s 66A(1) (as added: see note 1 supra).

7 Ibid s 66A(1) (as added: see note 1 supra). Section 66A (as added) has effect in relation to the blending or other mixing of alcoholic liquors on or after 27 July 1993: see the Finance Act 1993 s 5(1), (4).

In relation to the blending of particular alcoholic liquors: (1) if the liquor which is the product of the blending is beer, permitted premises are premises which are registered under the Alcoholic Liquor Duties Act 1979 s 41A (as added and amended) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 445) and premises in respect of which a person is registered under s 47 (as substituted) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 465); (2) if the liquor which is the product of the blending is wine, permitted premises are premises in respect of which a licence under s 54(2) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 484) is held; (3) if the liquor which is the product of the blending is made-wine, permitted premises are premises in respect of which a licence under s 55(2) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 485) is held; (4) if the liquor which is the product of the blending is cider, permitted premises are premises in respect of which a person is registered

under s 62 (as amended) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 491): s 66A(3) (as added: see note 1 supra).

8 As to the ascertainment of the strength of alcoholic liquors see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 408.

9 Alcoholic Liquor Duties Act 1979 s 66A(2) (as added: see note 1 supra).

10 le ibid s 66A(1), (2) (as added) (see the text and notes 1-9 supra).

11 Ibid s 66A(4) (as added: see note 1 supra).

12 See ibid s 66A(5) (as added: see note 1 supra).

13 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

14 See the Alcoholic Liquor Duties Act 1979 s 66A(6) (as added: see note 1 supra).

15 Ibid s 66A(7) (as added: see note 1 supra).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(1) ALCOHOLIC LIQUORS GENERALLY/415.
Regulation of manufacture.

415. Regulation of manufacture.

The Commissioners of Customs and Excise¹ may, with a view to the protection of the revenue, make regulations for regulating the manufacture of spirits² and for regulating the removal of spirits from a distillery³. The Commissioners may also make regulations relating to the manufacture of beer⁴, wine⁵ and made-wine⁶, and cider⁷. Provision is also made in relation to industrial alcohol⁸. Provisions relating to excise are dealt with elsewhere in this work⁹.

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

3 See the Alcoholic Liquor Duties Act 1979 s 13 (as amended); and CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 417. 'Distillery' means premises where spirits are manufactured, whether by distillation of a fermented liquor or by any other process: s 4(1). As to regulations relating to the manufacture of spirits see the Spirits Regulations 1991, SI 1991/2564; and PARAS 416-437 post. As to the warehousing of spirits see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARAS 419-420.

4 See the Alcoholic Liquor Duties Act 1979 s 49 (as substituted and amended); and CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 464. For the meaning of 'beer' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 401. As to regulations made under this provision see the Beer Regulations 1993, SI 1993/1228 (as amended); and PARA 438 post.

5 For the meaning of 'wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 402.

6 See the Alcoholic Liquor Duties Act 1979 s 56(1) (as amended); and CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 483. For the meaning of 'made-wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 403. As to regulations made under this provision see the Wine and Made-Wine Regulations 1989, SI 1989/1356 (as amended); and PARAS 439-440 post.

7 See the Alcoholic Liquor Duties Act 1979 s 62(5) (as amended); and CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 504. As to regulations made under this provision see the Cider and Perry Regulations 1989, SI 1989/1355 (as amended); and PARAS 441-442 post.

8 See the Iso-propyl Alcohol Regulations 1927, SR & O 1927/783; and PARA 443 post.

9 As to the provision of appliances see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 1168. As to entry and examination by officers see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 631. As to the power to search for concealed pipes etc see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 632. As to the power to prohibit use of certain substances in excisable goods see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 633. As to the power to keep specimens on the premises of excise traders see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 634. As to execution and distress against revenue traders see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 636. As to the liability of an ostensible owner or principal manager of the business of a revenue trader see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 637. As to the obstruction of officers see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 927. As to the assistance to be rendered by police see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 925. As to the use of agents see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 904.

UPDATE

415 Regulation of manufacture

NOTE 8--SR & O 1927/783 revoked: SI 2005/1524.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(i) Manufacture of Spirits/416.
Approval of plant and processes and entry of premises.

(2) SPIRITS

(i) Manufacture of Spirits

416. Approval of plant and processes and entry of premises.

Before a distiller¹ manufactures spirits he must make written application to the proper officer of Customs and Excise² for approval of the plant³ and processes⁴ he intends to use⁵. Any such application must be accompanied by a description of the processes referred to in it, and a drawing, model or description distinctly showing the course, construction and use of all the plant referred to in it, together with such additional information as the Commissioners of Customs and Excise⁶ may require⁷.

No distiller may begin to manufacture spirits until he has received the approval of the Commissioners of the plant and processes referred to in his application, and any such approval may be given subject to conditions⁸. The Commissioners may for reasonable cause at any time vary or add to any conditions imposed on the approval of any plant or process, or withdraw any such approval⁹.

A distiller receiving approval must ensure that the manufacture of spirits does not commence before he has made entry of the premises to be used in the manufacture of spirits¹⁰. Save as the Commissioners may otherwise allow, no distiller is to withdraw any such entry made while any still¹¹, spirit or distillable material remains on the premises so entered¹².

A distiller receiving approval must ensure that any plant or process so approved¹³ is not varied, altered or changed unless the variation, alteration or change is first approved by the Commissioners, and any such approval may be given subject to conditions¹⁴.

A distiller must to the satisfaction of the officer:

- 6 (1) place and keep all plant used by him in the manufacture of spirits in a place convenient for examination, and with safe means of access, so that the nature and quantity of the contents can be accurately ascertained¹⁵;
- 7 (2) gauge or calibrate any plant¹⁶;
- 8 (3) draw off the water from the worm tubs, refrigerators and cooling equipment, when required to do so at any time while distillation is not in progress, and leave those vessels empty until the officer completes his examination of them¹⁷; and
- 9 (4) fix and place every pipe used by him, unless used exclusively for the discharge of water or spent wash, so as to be capable of being examined for such parts of its length as the officer may require¹⁸.

A distiller must ensure that no plant is constructed or altered in a way which would facilitate the carrying out of any unapproved process, or the interference with any approved process, and that no person tampers or interferes with any plant or process in any way not authorised¹⁹.

1 'Distiller' means a person holding a licence under the Alcoholic Liquor Duties Act 1979 s 12 (as amended) (see CUSTOMS AND EXCISE VOL 12(2) (2007 Reissue) PARA 418): Spirits Regulations 1991, SI 1991/2564, reg 3.

- 2 See ibid reg 3. As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.
- 3 'Plant' means all vessels, utensils, pipes, fittings and other equipment used for the manufacture of spirits, or for the storage or processing of materials for the manufacture of spirits or for the storage of spirits after their manufacture: ibid reg 3.
- 4 'Process' includes an operation carried on in order to manufacture spirits, and an operation on spirits after their manufacture: ibid reg 3.
- 5 Ibid reg 4(1).
- 6 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.
- 7 Spirits Regulations 1991, SI 1991/2564, reg 4(2).
- 8 Ibid reg 4(3).
- 9 Ibid reg 4(4).
- 10 Ibid reg 5(1).
- 11 'Still' includes part of a still: ibid reg 3.
- 12 Ibid reg 5(2).
- 13 'Approved' means approved by the Commissioners or by the officer as the case may be: ibid reg 3.
- 14 Ibid reg 6(1). Application for the approval of any variation, alteration or change to any plant or process must be in such form and manner and must provide such details, including a written description, drawing or model, as the Commissioners may require: reg 6(2). The Commissioners may for reasonable cause at any time vary or add to any conditions imposed on the approval of any variation, alteration or change of any plant or process, or withdraw any such approval: reg 6(3).
- 15 Ibid reg 7(a).
- 16 Ibid reg 7(b).
- 17 Ibid reg 7(c).
- 18 Ibid reg 7(d).
- 19 Ibid reg 8. The authorisation referred to in the text is that given by or under the Spirits Regulations 1991, SI 1991/2564: see reg 8.

UPDATE

416 Approval of plant and processes and entry of premises

NOTE 3--For 'all vessels, utensils, pipes, fittings and other equipment' read 'the vessels': SI 1991/2564 reg 3 (definition amended by SI 2006/1058).

TEXT AND NOTE 6--For 'drawing ... of all' read 'description of': SI 1991/2564 reg 4(2) (amended by SI 2006/1058).

TEXT AND NOTES 10-12, 15-19--Revoked: SI 2006/1058.

TEXT AND NOTE 14--Now, not significantly varied: SI 1991/2564 reg 6(1) (amended by SI 2006/1058).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(i) Manufacture of Spirits/417.
Conduct of processes generally.

417. Conduct of processes generally.

A distiller¹ must comply with such conditions or requirements as the proper officer of Customs and Excise² may for reasonable cause impose in relation to any particular operation or process in the manufacture of spirits³.

A distiller must conduct his operations in separate distillation periods⁴ for each class of spirits⁵, and must specify the dates of commencement and termination of those periods in the entry book⁶ (or other approved records⁷) or as the officer may otherwise allow⁸. A distiller may conduct his operations so that more than one distillation period is in progress at any one time⁹.

In respect of each batch of wort¹⁰ which he makes, the distiller must specify to which distillation period it belongs, and a distillation period commences at the date when production of the earliest of the wort included in it commences¹¹. Each distillation period ends when all the wort specified to belong to it has been distilled and the feints¹² and spirits produced from it have been conveyed into their receivers and account has been taken of them¹³. Save as the officer may otherwise allow, a distiller must conduct his operations so that no distillation period exceeds one month in length¹⁴.

Save as the Commissioners of Customs and Excise may otherwise allow, a distiller must ensure that the produce of any distillation period is not mixed with any other matter until account of that produce has been taken in such manner and to such an extent as the officer may require¹⁵. Notwithstanding this, before account is taken of the produce of any distillation period it may be mixed with feints of which account has been taken in an earlier distillation period¹⁶.

1 For the meaning of 'distiller' see PARA 416 note 1 ante.

2 See the Spirits Regulations 1991, SI 1991/2564, reg 3. As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

3 Ibid reg 9. This provision is without prejudice to the other provisions of the Spirits Regulations 1991, SI 1991/2564: see reg 9.

4 'Distillation period' means the period prescribed by ibid reg 10 (see the text and notes 8-14 infra) in respect of each class of spirits: reg 3.

5 'Class of spirits' means one of the classes of spirits specified from time to time for the purpose of the Spirits Regulations 1991, SI 1991/2564, in a notice published by the Commissioners of Customs and Excise: reg 3. As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

6 As to entry books see CUSTOMS AND EXCISE.

7 I.e. records approved under the Spirits Regulations 1991, SI 1991/2564, reg 21: see reg 10(1). 'Records' includes documents, copies of documents and information stored in a computer or produced from a computer: reg 3. 'Document' has the same meaning as it has in the Finance Act 1985 s 10 (see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 1172): reg 3. For the meaning of 'approved' see PARA 416 note 13 ante.

8 Ibid reg 10(1).

9 Ibid reg 10(2).

10 'Wort' means any infusion, solution or mixture intended for fermentation as part of the process of manufacturing spirits: ibid reg 3.

- 11 Ibid reg 10(3).
- 12 'Feints' means spirits conveyed into a feints receiver: ibid reg 3.
- 13 Ibid reg 10(4).
- 14 Ibid reg 10(5).
- 15 Ibid reg 11(1).
- 16 Ibid reg 11(2).

UPDATE

417 Conduct of processes generally

TEXT AND NOTES 1-3--Revoked: SI 2006/1058.

TEXT AND NOTES 6-8--Words 'and must specify ... otherwise allow' omitted: SI 1991/2564 reg 10(1) (amended by SI 2006/1058).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(i) Manufacture of Spirits/418.
Provisions as to wort or wash etc.

418. Provisions as to wort or wash etc.

Except with the written consent of the Commissioners of Customs and Excise¹ and subject to such conditions as they may prescribe:

- 10 (1) a distiller² must not use any material in the brewing or making of wort³ or wash⁴ which prevents the true gravity of the wort or wash from being ascertained⁵;
- 11 (2) a distiller must not have in his possession at a distillery⁶ any wort, wash, low wines⁷, feints⁸, spirits or fermented liquor not made, brewed or distilled at that distillery⁹; and
- 12 (3) a distiller must not add yeast, or other matter capable of causing fermentation, to wort or wash in any vessel other than a fermenting vessel¹⁰.

A distiller must ensure that any wort or wash removed from any fermenting vessel for the recovery of yeast is not disposed of except in such manner as the proper officer of Customs and Excise¹¹ may approve and subject to such conditions as he may prescribe¹².

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 For the meaning of 'distiller' see PARA 416 note 1 ante.

3 For the meaning of 'wort' see PARA 417 note 10 ante.

4 'Wash' means wort in which fermentation has begun: Spirits Regulations 1991, SI 1991/2564, reg 3.

5 Ibid reg 12(1)(a). As to the gravity of wort or wash see PARA 419 post.

6 'Distillery' means premises where spirits are manufactured, whether by distillation of a fermented liquor or by any other process: ibid reg 3.

7 'Low wines' means spirits of the first extraction conveyed into a low wines receiver: ibid reg 3.

8 For the meaning of 'feints' see PARA 417 note 12 ante.

9 Spirits Regulations 1991, SI 1991/2564, reg 12(1)(b).

10 Ibid reg 12(1)(c).

11 See ibid reg 3. As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

12 Ibid reg 12(2).

UPDATE

418 Provisions as to wort or wash etc

TEXT AND NOTES--Revoked: SI 2006/1058.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(i) Manufacture of Spirits/419.
Gravity of wort or wash.

419. Gravity of wort or wash.

The Commissioners of Customs and Excise¹ may require that before the gravity of any wort² or wash³ is ascertained it must be cleared of insoluble matter in a manner approved by them⁴. Save as otherwise provided⁵, and unless the Commissioners approve in writing some other means, the gravity of any wort or wash must be ascertained by an approved saccharometer⁶ and a thermometer⁷ used in a manner approved by them⁸.

A distiller⁹ must ascertain, and record in such form and manner as the proper officer of Customs and Excise¹⁰ may require, the quantity and gravity of any wort or wash immediately after collection in any fermenting vessel is complete¹¹. A distiller must also ascertain, and record in such form and manner as the officer may require, particulars of the gravity of any wash immediately before he removes it from a fermenting vessel, together with such other particulars as the officer may require, including particulars of the vessel¹². When such record has been made of any wort or wash, the quantity or gravity of that wort or wash must not be increased except with the permission of the officer¹³.

When fermentation has commenced in any wash so that the original gravity of the wort from which the wash is made cannot be ascertained by an approved means, the original gravity may be determined in the manner prescribed¹⁴.

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 For the meaning of 'wort' see PARA 417 note 10 ante.

3 For the meaning of 'wash' see PARA 418 note 4 ante.

4 Spirits Regulations 1991, SI 1991/2564, reg 14(1). For the meaning of 'approved' see PARA 416 note 13 ante.

5 Ie save as provided by ibid regs 15, 16 (see note 14 infra): see reg 14(2).

6 'Approved saccharometer' means a saccharometer of a type specified from time to time for the purpose of the Spirits Regulations 1991, SI 1991/2564, in a notice published by the Commissioners: reg 3.

7 'Thermometer' means a thermometer of which a specimen (bearing a label signed by the chairman of the Commissioners and identifying the instrument as being one to which the Spirits Regulations 1991, SI 1991/2564, relate) has been deposited in the office of the Queen's Remembrancer at the Royal Courts of Justice: reg 3. As to the Queen's Remembrancer see COURTS.

8 Ibid reg 14(2).

9 For the meaning of 'distiller' see PARA 416 note 1 ante.

10 See the Spirits Regulations 1991, SI 1991/2564, reg 3. As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

11 Ibid reg 14(3).

12 Ibid reg 14(4).

13 Ibid reg 14(5).

14 As to the prescribed methods for ascertaining the original gravity after fermentation has commenced see
ibid regs 15, 16, Sch 2.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(i) Manufacture of Spirits/420.
Sugar.

420. Sugar.

Save as the Commissioners of Customs and Excise¹ may otherwise allow, a distiller²:

- 13 (1) must not keep any sugar³ at his distillery⁴ otherwise than in a sugar store within the entered premises⁵;
- 14 (2) must not remove any sugar from a sugar store except for use in the manufacture of spirits⁶;
- 15 (3) must immediately convey any sugar removed from the sugar store to the place where it is to be used and if it is not then used must return it forthwith to the store⁷; and
- 16 (4) must not remove any sugar from, or return any sugar to, a sugar store before any entry or other record⁸ required⁹ has been made¹⁰.

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 For the meaning of 'distiller' see PARA 416 note 1 ante.

3 'Sugar' includes molasses, saccharine solutions and all similar materials for the production of alcoholic liquors: Spirits Regulations 1991, SI 1991/2564, reg 3.

4 For the meaning of 'distillery' see PARA 418 note 6 ante.

5 Spirits Regulations 1991, SI 1991/2564, reg 13(a). As to entry of premises see PARA 416 ante.

6 Ibid reg 13(b).

7 Ibid reg 13(c).

8 For the meaning of 'records' see PARA 417 note 7 ante.

9 Ie required by or under the Spirits Regulations 1991, SI 1991/2564.

10 Ibid reg 13(d).

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REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(i) Manufacture of Spirits/421.
Taking account.

421. Taking account.

A distiller¹ must give notice of the taking account of spirits and such notice must be given in the entry book² (or other approved records³) and must specify the vessel, day and time when account is to be taken⁴. Save as the proper officer of Customs and Excise⁵ may otherwise allow, not less than 24 hours' notice must be so given⁶.

Save as the officer may otherwise allow, a distiller must ensure that spirits are not removed from the vessel in which account of them has been taken until one hour after that account has been declared in the entry book (or other approved records), and that nothing is added to those spirits before that time has elapsed⁷.

A distiller may, for reasonable cause, before the time specified in the notice for taking account of spirits, cancel the notice or vary it by substituting a later time⁸.

1 For the meaning of 'distiller' see PARA 416 note 1 ante.

2 As to entry books see CUSTOMS AND EXCISE.

3 I.e. approved under the Spirits Regulations 1991, SI 1991/2564, reg 21. For the meaning of 'approved' see PARA 416 note 13 ante.

4 Ibid reg 17(1).

5 See ibid reg 3. As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

6 See ibid reg 17(2).

7 Ibid reg 17(3).

8 Ibid reg 17(4).

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REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(i) Manufacture of Spirits/422.
Ascertainment of strength and volume of spirits.

422. Ascertainment of strength and volume of spirits.

The strength of spirits¹ may be ascertained:

- 17 (1) by means of a hydrometer², a thermometer³ and the specified table⁴; or
- 18 (2) by determining the density of the spirits in air at specified temperatures⁵ and taking the strength of the spirits to be the percentage of alcohol by volume corresponding to that density in the specified table⁶, provided that where the density of any spirits determined in this way falls between any two consecutive numbers in that table the strength is to be determined by linear interpolation⁷.

Where spirits contain any substance other than alcohol and water the Commissioners of Customs and Excise may either:

- 19 (a) require that the strength of the spirits be ascertained by any of the means prescribed⁸ after removing from the spirits any such substance to the extent which they consider necessary by distillation or such other process as they direct and adding water to replace the volume so removed; or
- 20 (b) allow the strength of the spirits to be ascertained, as though they contained alcohol and water only, by any of the means prescribed⁹.

The volume of spirits contained in any container may be ascertained for any purpose by such method involving weight, measure or gauge as the Commissioners may approve¹⁰.

1 The Spirits Regulations 1991, SI 1991/2564, regs 18, 19 apply to spirits, methylated spirits and any fermented liquor other than wash: reg 20. For the meaning of 'wash' see PARA 418 note 4 ante.

2 'Hydrometer' means a hydrometer of which a specimen (bearing a label signed by the chairman of the Commissioners of Customs and Excise and identifying the instrument as being one to which the Spirits Regulations 1991, SI 1991/2564, relate) has been deposited in the office of the Queen's Remembrancer at the Royal Courts of Justice: reg 3. As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq. As to the Queen's Remembrancer see COURTS.

3 For the meaning of 'thermometer' see PARA 419 note 7 ante.

4 I.e. the table entitled 'Practical Alcohol Tables Volume 2': see the Spirits Regulations 1991, SI 1991/2564, reg 18(1). 'Contents by Weight Table', 'Laboratory Alcohol Table' and 'Practical Alcohol Tables' mean respectively a set of tables of which a copy (signed by the chairman of the Commissioners and identifying the tables as being ones to which the Spirits Regulations 1991, SI 1991/2564, relate) has been deposited in the office of the Queen's Remembrancer at the Royal Courts of Justice: reg 3.

5 I.e. at 20°C: see *ibid* reg 18(1).

6 I.e. the table entitled 'Laboratory Alcohol Table' (see note 4 *supra*).

7 Spirits Regulations 1991, SI 1991/2564, reg 18(1). This is expressed to be subject to reg 18(2) (see the text and notes 8-9 *infra*).

8 I.e. prescribed by *ibid* Pt IV (regs 17-20).

9 *Ibid* reg 18(2). The means referred to in the text are those prescribed by Pt IV.

10 Ibid reg 19(1). Where the Commissioners approve ascertainment by weighing, the volume is to be calculated by means of a hydrometer and the table entitled 'Contents by Weight Table' (see note 4 supra): reg 19(2).

UPDATE

422 Ascertainment of strength and volume of spirits

TEXT AND NOTES 1-7--Or, head (3) by a method set out in EC Commission Regulation 2870/2000 Annex: SI 1991/2564 reg 18(1) (amended by SI 2006/1058).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(i) Manufacture of Spirits/423.
Manufacture of Scotch whisky.

423. Manufacture of Scotch whisky.

The production in Scotland of whisky¹ other than Scotch whisky² is prohibited³.

It is unlawful: (1) to sell⁴ as Scotch whisky any spirits not conforming to the specified definition of Scotch whisky⁵; or (2) to sell Scotch whisky at an alcoholic strength less than any such strength as may be specified for the time being in an order⁶.

If the court⁷ is satisfied, on the application of (a) any person carrying on the business of producing Scotch whisky; or (b) any person or body appearing to the court to be representative of any group of such persons, that any person has contravened or is contravening the above provisions⁸, the court may grant an injunction restraining such contravention⁹.

1 'Whisky' means spirits: (1) which have been produced by the distillation of a mash of cereals which has been: (a) saccharified by the diastase of the malt contained therein, with or without other natural enzymes; and (b) fermented by the action of yeast, to an alcoholic strength of less than 94.8% by volume so that the distillate has an aroma and taste derived from the raw materials used; and (2) which have matured for at least three years in wooden casks of a capacity not exceeding 700 litres: Scotch Whisky Act 1988 s 3(1). The Secretary of State may by order amend this definition of whisky: see s 3(1), (2) (s 3(1) amended by the Scotland Act 1998 (Consequential Modifications) Order 1999, SI 1999/1820, art 4, Sch 2 Pt I para 90; and the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002, SI 2002/794, art 5, Sch 1 para 33, Sch 2). At the date at which this volume states the law, no such order had been made. Orders made under the Scotch Whisky Act 1988 s 2 or s 3 (as amended) may make different provision for different cases: s 3(3). Orders made under s 2 or s 3 (as amended) must be made by statutory instrument and are subject to annulment in pursuance of a resolution of either House of Parliament: s 3(4).

2 'Scotch whisky' means such whisky (distilled and matured in Scotland) as conforms to a definition of Scotch whisky contained in an order made under *ibid* s 3(1): s 3(1). The Scotch Whisky Order 1990, 1990/998, defines 'Scotch whisky' for the purposes of the Scotch Whisky Act 1988 as whisky:

- 1 (1) which has been produced at a distillery in Scotland from water and malted barley (to which only whole grains of other cereals may be added) all of which have been: (a) processed at that distillery into a mash; (b) converted to a fermentable substrate only by endogenous enzyme systems; and (c) fermented only by the addition of yeast (art 3(a));
- 2 (2) which has been distilled at an alcoholic strength by volume of less than 94.8% so that the distillate has an aroma and taste derived from the raw materials used in, and the method of, its production (art 3(b));
- 3 (3) which has been matured in an excise warehouse in Scotland in oak casks of a capacity not exceeding 700 litres, the period of that maturation being not less than three years (art 3(c));
- 4 (4) which retains the colour, aroma and taste derived from the raw materials used in, and the method of, its production and maturation (art 3(d)); and
- 5 (5) to which no substance other than water and spirit caramel has been added (art 3(e)).

For the meaning of 'excise warehouse' see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 670; definition applied by art 2.

3 See the Scotch Whisky Act 1988 s 1. Contraventions of s 1 can be restrained by injunction, and the spirits in question are liable to forfeiture: see s 1.

4 'Sell' includes offering for sale, exposing for sale and having in possession for the purpose of sale; and cognate expressions are to be construed accordingly: *ibid* s 3(1).

5 *Ibid* s 2(1)(a). The specified definition of Scotch whisky is that contained in an order under s 3(1) (see note 2 *supra*): see s 2(1).

6 Ibid s 2(1)(b). The alcoholic strength specified for these purposes is 40% by volume (being also the minimum alcoholic strength by volume prescribed in relation to 'whisky/whiskey' by EC Council Regulation 1576/89 (OJ L160, 12.6.89, p 1) art 3(1)): Scotch Whisky Order 1990, SI 1990/998, art 4. As to describing products as 'whiskey' see *Scotch Whisky Association v Glen Kella Distillers Ltd* (1997) 141 Sol Jo LB 91, [1997] 16 LS Gaz R 29.

7 'The court' means the High Court in relation to England and Wales and the Court of Session in relation to Scotland: Scotch Whisky Act 1988 s 3(1).

8 Ie the provisions of ibid s 2(1) (see the text and notes 4-6 supra).

9 See ibid s 2(2).

UPDATE

423 Manufacture of Scotch whisky

TEXT AND NOTES--1988 Act replaced: Scotch Whisky Regulations 2009, SI 2009/2890, which impose national requirements in relation to Scotch whisky in addition to the requirements that apply by virtue of European Parliament and EC Council Regulation 110/2008 (OJ L39, 13.2.2008, p 16) (replacing Regulation 1576/89) on the definition, description, presentation, labelling and protection of geographical indications of spirit drinks. The manufacture, marketing, movement and presentation of Scotch whisky are regulated: see SI 2009/2890 regs 5-14, Schs 1-3. The Commissioners for Her Majesty's Revenue and Customs are designated as a competent authority in relation to the verification functions imposed on them: reg 15. Food authorities and port health authorities are empowered to enforce the 2009 Regulations and must appoint officers and give assistance and information to each other for this purpose: regs 16-18. Authorised officers have powers of entry, search, seizure and destruction to ensure that the provisions of the regulations are being complied with: regs 19-21. If an authorised officer believes that a person is failing to comply with specified regulations he may issue an improvement notice, against which there is a right of appeal: regs 22-24.

Enforcement authorities have power to publicise the destruction of seized products and the giving of improvement notices (reg 25), and obstructing persons acting in the execution of the regulations is prohibited (reg 26). Contravention or failure to comply with specified provisions is an offence punishable by a fine (regs 26, 27), and specific provision is made for offences by bodies corporate (reg 29). Provision is also made for the defaults of third persons in relation to the commission of offences (reg 30), defences (reg 31), a scheme for the issuing and payment of penalty notices for offences in relation to specified provisions (regs 32-39, Sch 4), and the giving of notices (reg 41). Injunctions prohibiting the contravention of certain provisions may be granted on the application of distillers, blenders or brand owners of Scotch whisky and their representatives: reg 40.

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(ii) Rectifying or Compounding/424.
Power to make regulations.

(ii) Rectifying or Compounding

424. Power to make regulations.

With a view to the protection of the revenue, the Commissioners of Customs and Excise¹ have made regulations regulating the rectifying and compounding of spirits² and the receipt, storage, removal and delivery of spirits by rectifiers and compounders³.

If any person contravenes or fails to comply with any such regulation or with any condition, restriction or requirement imposed under any such regulation, he is liable to a penalty; and any spirits and other article in respect of which the offence was committed are liable to forfeiture⁴.

¹ As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

² See the Spirits (Rectifying, Compounding and Drawback) Regulations 1988, SI 1988/1760, made under the Alcoholic Liquor Duties Act 1979 s 19(1) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 426). For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400. The Spirits (Rectifying, Compounding and Drawback) Regulations 1988, SI 1988/1760, Pt II (regs 4-8) applies to all rectifiers and compounders, except in respect of operations carried out in an excise warehouse: see reg 3(2). As to excise warehouses see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 670 et seq. As to drawback provisions see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARAS 428-429.

³ See *ibid* regs 4-8; and PARAS 425-427 post. For the meaning of 'rectifier' and 'compounder' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 425.

⁴ See the Alcoholic Liquor Duties Act 1979 s 19(2) (as amended); and CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 426.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(ii) Rectifying or Compounding/425.
Restrictions on carrying on trade of rectifier or compounder.

425. Restrictions on carrying on trade of rectifier or compounder.

No person may rectify or compound spirits¹ and keep a still for that purpose unless he holds an excise licence as a rectifier² or compounder³. No person may begin to carry on the business of a rectifier or of a compounder until he has made entry of the premises, rooms, places, fixed vessels and plant which he intends to use for keeping, rectifying or compounding spirits⁴.

1 As to rectifying and compounding of spirits see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARAS 425-429.

2 'Rectifier' means a person holding a licence as a rectifier under the Alcoholic Liquor Duties Act 1979 s 18 (as amended) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 425): Spirits (Rectifying, Compounding and Drawback) Regulations 1988, SI 1988/1760, reg 1(2). As to restrictions relating to rectifiers see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 426.

3 See the Alcoholic Liquor Duties Act 1979 s 18 (as amended); and CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 425. 'Compounder' means a person holding a licence as a compounder under s 18 (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 425): Spirits (Rectifying, Compounding and Drawback) Regulations 1988, SI 1988/1760, reg 1(2).

4 Ibid reg 4. As to changes to the existing entry see PARA 426 post.

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REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(ii) Rectifying or Compounding/426.
Regulations affecting appliances.

426. Regulations affecting appliances.

A rectifier¹ or compounder² must not alter, move or add to any entered premises, rooms, places, fixed vessels and plant in any way not in accordance with the entry unless he has given to the Commissioners of Customs and Excise³ seven clear days' notice of his intention to do so⁴, and he must make entry of any premises, rooms, places, fixed vessels and plant which have been altered, moved, added or added to, which he intends to use for keeping, rectifying or compounding spirits, before he uses them for that purpose⁵.

The rectifier or compounder must, if so required by the proper officer of Customs and Excise⁶, legibly mark on every vessel in the entered premises the capacity of the vessel in litres and the quantity and strength of spirits contained in it⁷.

1 For the meaning of 'rectifier' see PARA 425 note 2 ante.

2 For the meaning of 'compounder' see PARA 425 note 3 ante.

3 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

4 Spirits (Rectifying, Compounding and Drawback) Regulations 1988, SI 1988/1760, reg 5(a).

5 Ibid reg 5(b).

6 See ibid reg 1(2). As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

7 See ibid reg 6.

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REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(ii) Rectifying or Compounding/427.
Rectifiers' and compounders' stock accounts.

427. Rectifiers' and compounders' stock accounts.

A rectifier¹ or compounder² must keep at his premises a stock account in a form approved by the proper officer of Customs and Excise³. On receiving or sending out any spirits⁴ he must enter in the stock account such particulars as the officer may require, and those particulars must be entered at or within such time as the officer may require⁵. The rectifier or compounder must retain the stock account for not less than two years from the date of the last entry in it⁶, and must produce the stock account when required to do so by the proper officer and permit him to make notes in it or take extracts from it⁷.

A rectifier or compounder must permit the officer to take an account of the spirits in stock at any time⁸.

1 For the meaning of 'rectifier' see PARA 425 note 2 ante.

2 For the meaning of 'compounder' see PARA 425 note 3 ante.

3 Spirits (Rectifying, Compounding and Drawback) Regulations 1988, SI 1988/1760, regs 1(2), 7(a). As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

4 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

5 Spirits (Rectifying, Compounding and Drawback) Regulations 1988, SI 1988/1760, reg 7(b).

6 Ibid reg 7(c).

7 Ibid reg 7(d). As to the penalty for failing to comply with these provisions see the Alcoholic Liquor Duties Act 1979 s 19(2) (as amended); and CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 426.

8 Spirits (Rectifying, Compounding and Drawback) Regulations 1988, SI 1988/1760, reg 8.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(iii) Restrictions and Penalties/428.
Restrictions on distiller or rectifier carrying on other trades.

(iii) Restrictions and Penalties

428. Restrictions on distiller or rectifier carrying on other trades.

Save with the permission of the Commissioners of Customs and Excise¹ and subject to compliance with such conditions as they see fit to impose, a distiller² or rectifier³ must not carry on upon his premises the trade of a registered brewer⁴, producer of wine⁵ or of made-wine⁶, maker of cider⁷, vinegar-maker, refiner of sugar, wholesaler or retailer⁸ of wine, made-wine or beer⁹, or retailer of methylated spirits¹⁰ or cider¹¹, nor may he carry on the trade of a distiller or rectifier on any premises communicating otherwise than by a public roadway with other premises on which any such trade¹² or that of a wholesaler¹³ of spirits¹⁴ is carried on¹⁵.

Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose, a distiller or rectifier must not carry on upon his premises the trade of a retailer of spirits¹⁶ or carry on the trade of distiller or rectifier on any premises communicating otherwise than by a public roadway with other premises on which the trade of retailer of spirits is carried on¹⁷.

Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose, a distiller or rectifier must not be concerned or interested in the trade of a retailer or wholesaler of spirits carried on within three kilometres of his distillery¹⁸ or rectifying house¹⁹.

If any person contravenes any of these provisions or contravenes or fails to comply with any condition imposed under them his contravention or failure to comply attracts a penalty²⁰.

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 'Distiller' means a person holding a distiller's licence under the Alcoholic Liquor Duties Act 1979 s 12 (as amended) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 418): s 4(1).

3 For the meaning of 'rectifier' see PARA 425 note 2 ante.

4 For the meaning of 'registered brewer' see the Alcoholic Liquor Duties Act 1979 s 47(1); and CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 465.

5 For the meaning of 'wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 402.

6 For the meaning of 'made-wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 403. As to producers' licences see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARAS 484-485.

7 For the meaning of 'cider' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 404. As to cider-makers' licences see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 505.

8 'Retailer' means in relation to dutiable alcoholic liquor, a person who sells such liquor by retail: Alcoholic Liquor Duties Act 1979 s 4(1).

9 For the meaning of 'beer' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 401.

10 As from a date to be appointed, this provision is amended so as to refer to denatured alcohol instead of methylated spirits: see the Finance Act 1995 ss 5(5), 11(1), Sch 2 para 4, Sch 8 para 17. At the date at which this volume states the law, no such day had been appointed. As to provisions relating to methylated spirits see TRADE AND INDUSTRY vol 97 (2010) PARAS 832-836.

11 Alcoholic Liquor Duties Act 1979 s 24(1)(a) (amended by the Finance Act 1981 s 11(1), Sch 8 Pt II para 17; and the Finance Act 1991 s 7(4), Sch 2 para 1).

12 ie any such trade as is mentioned in the Alcoholic Liquor Duties Act 1979 s 24(1)(a) (as amended).

13 'Wholesaler' means a person who deals wholesale in dutiable alcoholic liquor: *ibid* s 4(1) (definition substituted by the Finance Act 1981 s 11(1), Sch 8 Pt II para 11).

14 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

15 Alcoholic Liquor Duties Act 1979 s 24(1)(b) (amended by the Finance Act 1981 Sch 8 Pt II para 17).

16 Alcoholic Liquor Duties Act 1979 s 24(2)(a).

17 *Ibid* s 24(2)(b).

18 For the meaning of 'distillery' see PARA 415 note 3 ante.

19 Alcoholic Liquor Duties Act 1979 s 24(3) (amended by the Alcoholic Liquor (Amendment of Units of Measurement) Order 1992, SI 1992/1917, art 2(a)).

20 See the Alcoholic Liquor Duties Act 1979 s 24(4) (amended by the Finance Act 1994 s 9, Sch 4 Pt II paras 14, 25). The penalty is a civil penalty under the Finance Act 1994 s 9 (as amended) (see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 1218): see the Alcoholic Liquor Duties Act 1979 s 24(4) (as so amended).

UPDATE

428 Restrictions on distiller or rectifier carrying on other trades

NOTE 10--Day appointed is 1 July 2005: SI 2005/1523.

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REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(iii) Restrictions and Penalties/429.
Unlawful manufacture of spirits etc.

429. Unlawful manufacture of spirits etc.

Save as otherwise provided¹, any person who, otherwise than under and in accordance with an excise licence² so authorising him:

- 21 (1) manufactures spirits³, whether by distillation of a fermented liquor or by any other process⁴; or
- 22 (2) uses a still for distilling, rectifying or compounding spirits⁵; or
- 23 (3) distils or has in his possession any low wines or feints⁶; or
- 24 (4) not being a vinegar-maker, produces or makes or has in his possession any wort or wash fit for distillation⁷,

is liable on summary conviction to a penalty not exceeding level 5 on the standard scale⁸.

Where there is insufficient evidence to convict a person of such an offence⁹, but it is proved that such an offence has been committed on some part of premises belonging to or occupied by that person in such circumstances that it could not have been committed without his knowledge, that person is liable on summary conviction to a penalty not exceeding level 3 on the standard scale¹⁰. Any person found on premises on which spirits are being unlawfully manufactured or on which a still is being unlawfully used for rectifying or compounding spirits may be arrested¹¹.

All spirits and stills, vessels, utensils, wort, wash and other materials for manufacturing, distilling or preparing spirits, found in the possession of any person who commits such an offence¹², or found on any premises on which such an offence has been committed, are liable to forfeiture¹³.

1 Ie save as provided by or under the Alcoholic Liquor Duties Act 1979.

2 Ie an excise licence granted under the Alcoholic Liquor Duties Act 1979 (see CUSTOMS AND EXCISE).

3 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

4 Alcoholic Liquor Duties Act 1979 s 25(1)(a).

5 Ibid s 25(1)(b) (amended by the Finance Act 1986 s 114(6), Sch 23 Pt IV). As to rectifying and compounding of spirits see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARAS 425-429.

6 Alcoholic Liquor Duties Act 1979 s 25(1)(c). As to feints see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 421.

7 Ibid s 25(1)(d) (amended by the Finance Act 1991 s 7(4), Sch 2 para 1). As to wort see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 401; and as to wash see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 408.

8 Alcoholic Liquor Duties Act 1979 s 25(1) (amended by the Criminal Justice Act 1982 ss 38, 46). As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142.

9 Ie an offence under the Alcoholic Liquor Duties Act 1979 s 25(1) (as amended).

10 Ibid s 25(2) (amended by the Criminal Justice Act 1982 ss 38, 46).

11 Alcoholic Liquor Duties Act 1979 s 25(3) (amended by the Police and Criminal Evidence Act 1984 s 114(1)).

12 le an offence under the Alcoholic Liquor Duties Act 1979 s 25(1) (as amended).

13 Ibid s 25(4). Notwithstanding any other provision of the Customs and Excise Acts 1979 (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 398) relating to goods seized as liable to forfeiture, any officer by whom any thing is seized as liable to forfeiture under the Alcoholic Liquor Duties Act 1979 s 25(4) may at his discretion forthwith spill, break up or destroy that thing: s 25(5). As to the restriction on use of imported medical mixtures see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 430.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(iii) Restrictions and Penalties/430.
Importation and exportation of spirits.

430. Importation and exportation of spirits.

Save as permitted by the Commissioners of Customs and Excise¹, spirits² must not be imported in any ship³ of less than 40 tons register⁴ or in containers⁵ of a capacity of less than 40 litres each unless in bottles properly packed in cases⁶. Save as permitted by the Commissioners, spirits other than bottled spirits must not be exported, or be removed to the Isle of Man, or be brought to any place or be waterborne for exportation, or for removal to the Isle of Man, in containers holding less than 40 litres each⁷. Any spirits imported, exported, removed, brought or waterborne contrary to these provisions are liable to forfeiture⁸.

Where any ship is or has been in United Kingdom waters while having on board or attached in any manner to it any spirits in containers other than such as are permitted⁹, the ship and any such spirits found in it are liable to forfeiture¹⁰.

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

3 For the purposes of the Alcoholic Liquor Duties Act 1979 s 26(1) (as amended), all hovercraft (of whatever size) are to be treated as ships of less than 40 tons register; and s 26(4) (as amended) (see the text and notes 9-10 infra) applies as if any reference to a ship included a reference to a hovercraft: s 26(5). For the meaning of 'hovercraft' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 558; definition applied by s 4(3). For the meaning of 'ship' see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 897; definition applied by s 4(3). For the meaning of 'tons register' see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 893; definition applied by s 4(3).

4 Ibid s 26(1)(a).

5 For the meaning of 'container' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 408; definition applied by ibid s 4(3).

6 Ibid s 26(1)(b) (amended by the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979, SI 1979/241). For the meaning of 'case' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 427.

7 Alcoholic Liquor Duties Act 1979 s 26(2) (amended by the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979, SI 1979/241).

8 Alcoholic Liquor Duties Act 1979 s 26(3).

9 Ie permitted by or under ibid s 26(1) (as amended).

10 Ibid s 26(4) (amended by the Territorial Sea Act 1987 s 3(1), Sch 1 para 5(2)). For the meaning of 'United Kingdom waters' see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 952; definition applied by the Alcoholic Liquor Duties Act 1979 s 4(3).

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431. Grogging.

No person may: (1) subject any cask to any process for the purpose of extracting any spirits¹ absorbed in the wood²; or (2) have on his premises any cask which is being subjected to any such process or any spirits extracted from the wood of any cask³. A contravention of this provision attracts a penalty⁴.

All spirits extracted contrary to this provision, and every cask which is being subjected to any such process or which, being upon premises upon which spirits so extracted are found, has been subjected to any such process, are liable to forfeiture⁵.

1 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

2 Alcoholic Liquor Duties Act 1979 s 34(1)(a).

3 Ibid s 34(1)(b). Some actual process must be applied for the purpose of extracting the spirits. If spirits exude from an empty cask kept on the premises without any positive act being done to cause them to do so, this does not constitute grogging: *Robinson Bros v Dixon* [1903] 2 KB 701. Where water has been added to a cask for the purpose of keeping it sweet and spirits are thereby extracted from the wood, this does constitute the offence: *Lord Advocate v Carse* (1899) 63 JP 472.

4 Alcoholic Liquor Duties Act 1979 s 34(2) (substituted by the Finance Act 1994 s 9, Sch 4 Pt II paras 14, 27). The penalty is a civil penalty under the Finance Act 1994 s 9 (as amended) (see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 1218): see the Alcoholic Liquor Duties Act 1979 s 34(2) (as so substituted).

5 Ibid s 34(3).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5. REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(iv) Still Licences/432. Regulation of stills.

(iv) Still Licences

432. Regulation of stills.

The Commissioners of Customs and Excise¹ may, with a view to the protection of the revenue, make regulations²: (1) regulating the keeping and use of stills by persons other than distillers³ or rectifiers⁴; (2) regulating the manufacture of stills⁵; (3) prohibiting, except in such cases and upon such conditions as may be prescribed, the keeping or use by persons other than distillers or rectifiers of stills of greater capacity than 230 litres⁶; or (4) regulating the removal of stills or parts of stills⁷. If any person contravenes or fails to comply with any regulation made under this provision, his contravention or failure to comply attracts a penalty⁸; and any still or any part of a still in respect of which any person contravenes or fails to comply with any such regulation is liable to forfeiture⁹.

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 Alcoholic Liquor Duties Act 1979 s 82(1).

3 For the meaning of 'distiller' see PARA 428 note 2 ante.

4 Alcoholic Liquor Duties Act 1979 s 82(1)(a). As to rectifiers see PARA 425 ante.

5 Ibid s 82(1)(b).

6 Ibid s 82(1)(c) (amended by the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979, SI 1979/241).

7 Alcoholic Liquor Duties Act 1979 s 82(1)(d). The Stills Regulations 1952, SI 1952/2231, which were made under the Customs and Excise Act 1952 s 227 (repealed), have been revoked but not replaced: see the Stills (Revocation) Regulations 1986, SI 1986/1820. At the date at which this volume states the law, no further regulations have been made.

8 Ie a civil penalty under the Finance Act 1994 s 9 (as amended) (see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 1218).

9 Alcoholic Liquor Duties Act 1979 s 82(2) (amended by the Finance Act 1994 s 9, Sch 4 Pt II paras 14, 48).

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(v) Dealing in and Retailing of Spirits

433. The power to regulate.

With a view to the protection of the revenue, the Commissioners of Customs and Excise¹ may make regulations regulating the keeping of spirits² by wholesalers³ and retailers⁴. If any person contravenes or fails to comply with any such regulation, his contravention or failure to comply attracts a penalty⁵; and any liquor, container or utensil in respect of which any person contravenes or fails to comply with any such regulation is liable to forfeiture⁶.

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

3 For the meaning of 'wholesaler' see PARA 428 note 13 ante.

4 See the Alcoholic Liquor Duties Act 1979 s 67(1). For the meaning of 'retailer' see PARA 428 note 8 ante.

5 It is a civil penalty under the Finance Act 1994 s 9 (as amended) (see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 1218).

6 Alcoholic Liquor Duties Act 1979 s 67(2) (amended by the Finance Act 1994 s 9, Sch 4 Pt II paras 14, 42). For the purposes of the Alcoholic Liquor Duties Act 1979, as against any person selling or offering for sale the liquor in question: (1) any liquor sold or offered for sale as wine or under the name by which any wine is usually designated or known is deemed to be wine; and (2) any fermented liquor which is of a strength exceeding 23%, not being imported wine delivered for home use in that state on which the appropriate duty has been duly paid, is deemed to be spirits: s 74 (amended by the Alcoholic Liquor (Amendment of Units of Measurement) Order 1992, SI 1992/1917). Head (1) supra is without prejudice to any liability under the Alcoholic Liquor Duties Act 1979 s 71 (as amended) (see PARA 437 post): see s 74. For the meaning of 'wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 402. As to the appropriate duty see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 470 et seq.

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REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(v) Dealing in and Retailing of
Spirits/434. Restrictions on transactions by retailers of spirits.

434. Restrictions on transactions by retailers of spirits.

A retailer¹ of spirits² must not, unless he is also a wholesaler³ of spirits, sell or send out spirits to a rectifier⁴, or to a wholesaler or retailer of spirits, and he must not buy or receive spirits from another retailer who is not also such a wholesaler; and if he contravenes or fails to comply with this provision, his contravention or failure to comply attracts a penalty⁵.

1 For the meaning of 'retailer' see PARA 428 note 8 ante.

2 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

3 For the meaning of 'wholesaler' see PARA 428 note 13 ante.

4 As to rectifiers see PARA 425 ante.

5 Alcoholic Liquor Duties Act 1979 s 69(4) (amended by the Finance Act 1994 s 9, Sch 4 Pt II paras 14, 43). The contravention or failure to comply attracts a civil penalty under the Finance Act 1994 s 9 (as amended) (see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 1218); see the Alcoholic Liquor Duties Act 1979 s 69(4) (as so amended).

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REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(v) Dealing in and Retailing of
Spirits/435. Defence to proceedings in respect of diluted spirits.

435. Defence to proceedings in respect of diluted spirits.

In proceedings in respect of diluted whisky, brandy, rum or gin where the charge is of selling to the prejudice of the purchaser something not of the nature or substance or quality demanded¹, it is a defence for the person charged to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence².

1 See the Food Safety Act 1990 s 14; and FOOD vol 18(2) (Reissue) PARA 360.

2 See *ibid* s 21; and FOOD vol 18(2) (Reissue) PARA 465. As to the declaration by notice to the purchaser of the dilution of spirits to a greater extent, which may be relevant to the question of prejudice to the purchaser, see *Dawes v Wilkinson* [1907] 1 KB 278, DC; *Brander v Kinnear*, *Kelso v Soutar*, *Williamson v Soutar* 1923 JC 42; *Preston v Grant* [1925] 1 KB 177, DC; *Rodbourn v Hudson* [1925] 1 KB 225, DC; *Patterson v Findlay* 1925 JC 53.

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436. Restrictions on dealers in spirits carrying on other trades.

Save with the permission of the Commissioners of Customs and Excise¹ and subject to compliance with such conditions as they see fit to impose, a wholesaler² of spirits³ must not carry on his business on any premises communicating otherwise than by a public roadway with any premises entered or used by a distiller⁴ or rectifier⁵.

Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose, a retailer⁶ of spirits must not carry on his business on any premises which are entered or used by a distiller or rectifier or which communicate otherwise than by a public roadway with any such premises, or be concerned or interested in the business of a distiller or rectifier carried on upon any premises within three kilometres of any premises at which he sells spirits by retail⁷.

If any person contravenes or fails to comply with the above provisions or any condition imposed under those provisions, his contravention or failure to comply attracts a penalty⁸.

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 For the meaning of 'wholesaler' see PARA 428 note 13 ante.

3 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

4 For the meaning of 'distiller' see PARA 428 note 2 ante.

5 Alcoholic Liquor Duties Act 1979 s 69(1) (amended by the Finance Act 1981 s 11(1), Sch 8 Pt II para 21). As to rectifiers see PARA 425 ante. A dealer's licence must be taken out for the sale in wholesale quantities of spirits in bond to be supplied direct to a foreign ship for ship's stores: see *Tinwell v Mayhook* [1904] 2 KB 790, DC.

6 For the meaning of 'retailer' see PARA 428 note 8 ante.

7 Alcoholic Liquor Duties Act 1979 s 69(2) (amended by the Alcoholic Liquor (Amendment of Units of Measurement) Order 1992, SI 1992/1917, art 2(b)).

8 Alcoholic Liquor Duties Act 1979 s 69(3) (amended by the Finance Act 1994 s 9, Sch 4 Pt II paras 14, 43). The penalty is a civil penalty under the Finance Act 1994 s 9 (as amended) (see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 1218): see the Alcoholic Liquor Duties Act 1979 s 69(3) (as so amended).

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REGULATION OF MANUFACTURE AND SUPPLY/(2) SPIRITS/(v) Dealing in and Retailing of
Spirits/437. Misdescription of liquor as spirits.

437. Misdescription of liquor as spirits.

If any person: (1) for the purpose of selling any liquor, describes the liquor (whether in any notice or advertisement or on any label or wrapper, or in any other manner whatsoever) by any name or words such as to indicate that the liquor is, or is a substitute for, or bears any resemblance to, any description of spirits¹, or that the liquor is wine² fortified or mixed with spirits or any description of spirits³; or (2) sells, offers for sale, or has in his possession for the purpose of sale, any liquor so described⁴, his doing so attracts a penalty⁵ unless certain conditions are satisfied⁶.

Notwithstanding anything in this provision, a person who has sold, offered for sale, or had in his possession for the purpose of sale, any liquor described only by the name 'port' or 'sherry'⁷ is not liable to such a penalty by reason that the liquor has been described by some other person (not being the agent or servant of the first mentioned person) by that name in association with some other description such as to give such an indication as is mentioned in head (1) above⁸.

Any liquor or other article by means of or in relation to which there is a contravention of the above provisions⁹ is liable to forfeiture¹⁰.

The above provisions do not apply to any liquor which is prepared:

- 25 (a) on any premises in respect of which a justices' on-licence¹¹ is in force; or
- 26 (b) in any registered club¹²; or
- 27 (c) on any premises, or on board any aircraft, vessel or vehicle in the case of which a justices' licence is not required¹³,

for immediate consumption on those premises, in that club or on board that aircraft, vessel or vehicle, as the case may be¹⁴.

1 For the meaning of 'spirits' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400.

2 For the meaning of 'wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 402.

3 Alcoholic Liquor Duties Act 1979 s 71(1)(a). Notwithstanding anything in s 71 (as amended): (1) the name 'port' or 'sherry' or the name of any other description of genuine wine; or (2) a name which, before 4 May 1932, was used to describe a liquor containing vermouth and spirits, the quantity of vermouth being not less than 57% of the quantity of alcohol in the spirits, is not, for the purposes of s 71 (as amended), to be treated as being in itself such a description as to give such an indication as is mentioned in s 71(1)(a): s 71(2) (amended by the Alcoholic Liquor (Amendment of Units of Measurement) Order 1992, SI 1992/1917).

4 Alcoholic Liquor Duties Act 1979 s 71(1)(b).

5 Ie a civil penalty under the Finance Act 1994 s 9 (as amended) (see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 1218).

6 Alcoholic Liquor Duties Act 1979 s 71(1) (amended by the Finance Act 1988 s 1(5), Sch 1 Pt II para 10; and the Finance Act 1994 s 9, Sch 4 Pt II paras 14, 44). The conditions referred to in the text are that the duty chargeable on spirits has been paid in respect of no less than 97.5% of the liquor or the liquor is made with spirits and is a made-wine to which the provisions relating to fortification of wine apply (see the Alcoholic Liquor Duties Act 1979 s 55A (as added and amended)): s 71(1) (as so amended).

7 Ie by any such name as is mentioned in note 3 head (1) supra.

8 Alcoholic Liquor Duties Act 1979 s 71(3) (amended by the Finance Act 1994 Sch 4 Pt II paras 14, 44).

9 le a contravention of the Alcoholic Liquor Duties Act 1979 s 71(1) (as amended).

10 Ibid s 71(4) (substituted by the Finance Act 1994 Sch 4 Pt II paras 14, 44). As from a day to be appointed, nothing in the Alcoholic Liquor Duties Act 1979 s 71 (as amended) as it applies to England and Wales is to apply to any alcohol (within the meaning of the Licensing Act 2003: see PARA 101 note 2 ante) which is prepared on any premises which may be lawfully used for the supply of alcohol (within the meaning of s 14: see PARA 101 note 2 ante) for immediate consumption there: Alcoholic Liquor Duties Act 1979 s 71(4A) (prospectively added by the Licensing Act 2003 s 198, Sch 6 paras 71, 73(a)). At the date at which this volume states the law, no such day had been appointed. See further LICENSING AND GAMBLING.

11 'Justices' on-licence' has the meaning given by the Licensing Act 1964 s 1(2)(a) (as amended) and includes a canteen licence granted under Pt X (ss 148-157) (as amended) and an occasional licence granted under s 180 (as amended): Alcoholic Liquor Duties Act 1979 s 4(1). As from a day to be appointed, the Licensing Act 1964 is repealed by the Licensing Act 2003: see LICENSING AND GAMBLING. As to the licensing system under the Licensing Act 2003 see LICENSING AND GAMBLING. As to transitional provisions and savings see LICENSING AND GAMBLING.

12 As to registered clubs see LICENSING AND GAMBLING vol 67 (2008) PARA 85 et seq.

13 le not required by virtue of the Licensing Act 1964 s 199(c), (d) (as substituted).

14 Alcoholic Liquor Duties Act 1979 s 71(5). As from a day to be appointed, s 71(5) is amended so as to provide that nothing in s 71 (as amended) as it applies in Northern Ireland is to apply to liquor which is prepared on premises falling within head (a) or head (b) in the text for immediate consumption on those premises: see the Alcoholic Liquor Duties Act 1979 71(5) (prospectively amended by the Licensing Act 2003 s 199, Sch 6 paras 71, 73, Sch 7). At the date at which this volume states the law, no such day had been appointed. See further LICENSING AND GAMBLING.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(3) INTOXICATING LIQUOR OTHER THAN
SPIRITS/(i) Beer/438. Registration of producers of beer.

(3) INTOXICATING LIQUOR OTHER THAN SPIRITS

(i) Beer

438. Registration of producers of beer.

Every person required to be registered¹ as a producer of beer² ('the applicant') must make application to the Commissioners of Customs and Excise³ for registration in respect of the premises on which he produces or intends to produce beer⁴. Save as the Commissioners may otherwise allow, each application must contain specified particulars⁵ and must be in such form and manner as the Commissioners may prescribe in any notice published by them⁶ and not withdrawn by a further notice⁷.

The Commissioners may register the applicant in respect of each of the premises in respect of which application is made, and may issue a separate certificate of registration in respect of each of those premises⁸. Every certificate of registration must be kept at all times on the premises to which it relates, and must be produced for inspection to the proper officer of Customs and Excise on demand⁹.

A registered brewer¹⁰ must notify the Commissioners of any change to the particulars contained in any application¹¹ and the Commissioners may vary the registration accordingly¹². The Commissioners may, for reasonable cause, vary the registration of a registered brewer with respect to any registered brewery, provided that they give 14 days' notice in writing of such variation¹³.

A registered brewer must notify the Commissioners of: (1) his intention to cease production of beer at any of his registered breweries¹⁴; and (2) the cessation of production of beer at any of his registered breweries¹⁵. Where the Commissioners are satisfied that a registered brewer has failed to produce any beer or has ceased to produce beer at any registered brewery, they may revoke his registration as a registered brewer with respect to that registered brewery at any time¹⁶.

1 le under the Alcoholic Liquor Duties Act 1979 s 47 (as substituted and amended) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 465): see the Beer Regulations 1993, SI 1993/1228, reg 5(1).

2 For the meaning of 'beer' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 401; definition applied by ibid reg 4. The definition is subject to the Alcoholic Liquor Duties Act 1979 s 1(10) (as added) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 401): see the Beer Regulations 1993, SI 1993/1228, reg 4.

3 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

4 Beer Regulations 1993, SI 1993/1228, reg 5(1). A separate application must be made in respect of each of the premises on which the applicant produces or intends to produce beer: reg 5(2). As to the production of beer see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARAS 464-465. As to operations on beer see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARAS 466-469. As to duty on beer see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 431 et seq.

5 The application must contain the following particulars: (1) the name of the applicant; (2) the status (sole proprietor, partnership, limited company or other status) of the applicant's business; (3) the name and address of any co-operated brewery; (4) the address of the premises to be registered; (5) a plan of the premises to be registered; (6) the date the applicant intends to begin the production of beer; (7) the name and number of a

bank account held by the applicant and the name and branch of the bank providing that account; and (8) an estimate of the quantity of beer to be produced by the applicant each year: *ibid* reg 5(3), Sch 1 (amended by SI 2002/1265). For these purposes, 'co-operated brewery' means a brewery (other than the one that is the subject of the application) at which the applicant produces beer, or a person connected with the applicant produces beer; any question whether a person is connected with another is determined in accordance with the Income and Corporation Taxes Act 1988 s 839 (as amended) (see *INCOME TAXATION* vol 23(2) (Reissue) PARA 1258); Beer Regulations 1993, SI 1993/1258, Sch 1 (definition added by SI 2002/1265).

6 *le* published by them in pursuance of the Beer Regulations 1993, SI 1993/1228: see reg 5(3).

7 *Ibid* reg 5(3).

8 *Ibid* reg 6(1). Without prejudice to reg 10, where the applicant is or will also be registered under the provisions relating to suspension of duty (see the Alcoholic Liquor Duties Act 1979 s 41A (as added and amended); and *CUSTOMS AND EXCISE* vol 12(2) (2007 Reissue) PARA 445), a certificate of registration issued in accordance with the Beer Regulations 1993, SI 1993/1228, reg 6 may, in such circumstances as the Commissioners think fit, be issued in one document serving both as a certificate of registration under the Alcoholic Liquor Duties Act 1979 s 47 (as substituted and amended) (see *CUSTOMS AND EXCISE* vol 12(2) (2007 Reissue) PARA 465) and as a registered holder certificate: Beer Regulations 1993, SI 1993/1228, reg 6(2).

9 *Ibid* reg 6(4). The certificate of registration remains the property of the Commissioners: reg 6(3).

10 'Registered brewer' means a person registered under the Alcoholic Liquor Duties Act 1979 s 47 (as substituted and amended) (see *CUSTOMS AND EXCISE* vol 12(2) (2007 Reissue) PARA 465): s 47(1) (substituted by the Finance Act 1991 s 7(3)); Beer Regulations 1993, SI 1993/1228, reg 4.

11 *le* made under *ibid* reg 5. He is not required to notify the Commissioners of any change in his estimate of the quantity of beer to be produced each year: see reg 6(6).

12 *Ibid* reg 6(5).

13 *Ibid* reg 6(7).

14 *Ibid* reg 7(1).

15 *Ibid* reg 7(2).

16 *Ibid* reg 7(3).

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REGULATION OF MANUFACTURE AND SUPPLY/(3) INTOXICATING LIQUOR OTHER THAN
SPIRITS/(ii) Wine and Made-wine/439. Licence for production of wine and made-wine.

(ii) Wine and Made-wine

439. Licence for production of wine and made-wine.

Every person required to hold a licence¹ must make application to the Commissioners of Customs and Excise² to be licensed in respect of his premises³. A separate application must be made in respect of each of the premises on which the applicant produces or intends to produce wine⁴ or made-wine⁵. Every licence must be kept at all times on the premises to which it relates, and must be produced for inspection to an officer of Customs and Excise⁶ on demand⁷. A producer⁸ must notify the Commissioners of his intention to stop production of wine or of made-wine at any of his wineries⁹. A producer must also notify the Commissioners of the discontinuance of trade in wine or in made-wine at any of his wineries¹⁰.

Where the Commissioners are satisfied that a producer has ceased to trade at a winery, or that either wine or made-wine is not being produced on premises in respect of which he is licensed for that purpose, they may cancel the relevant licence at any time¹¹. Without prejudice to this, the Commissioners may, for reasonable cause, cancel the licence in respect of the premises of any producer, provided that they give three months' notice in writing of such cancellation¹².

1 'Licence' means a licence issued under the Alcoholic Liquor Duties Act 1979 s 54(2) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 484) or s 55(1) (as amended) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 485); and 'licensed' is to be construed accordingly: Wine and Made-Wine Regulations 1989, SI 1989/1356, reg 4. As to the requirement to hold a licence see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARAS 484-485. As to the determination of duty and the rates of duty see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARAS 479-482.

2 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 900 et seq.

3 Wine and Made-Wine Regulations 1989, SI 1989/1356, reg 5(1).

4 For the meaning of 'wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 402; definition applied by ibid reg 4.

5 Ibid reg 5(2). For the meaning of 'made-wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 403; definition applied by reg 4. The definition of 'made-wine' is subject to the Alcoholic Liquor Duties Act 1979 s 1(10) (as added) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 403); see the Wine and Made-Wine Regulations 1989, SI 1989/1356, reg 4.

The Commissioners may license the applicant in respect of each of the premises in respect of which application is made, and may issue a separate licence in respect of each of those premises: reg 6(1). The licence remains the property of the Commissioners: reg 6(2).

6 I.e. the proper officer of Customs and Excise: see ibid reg 4. As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

7 Ibid reg 7(1).

8 'Producer' means a producer of wine or made-wine who is or is required to be licensed: ibid reg 4.

9 Ibid reg 7(2). 'Winery' means the premises, rooms, places and vessels entered by a licensed producer for use by him in his trade as a producer: reg 4.

10 Ibid reg 7(3). As to rendering wine and made-wine sparkling see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 488. As to the fortification of wine and made-wine see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARAS 486-487.

11 Ibid reg 8(1).

12 Ibid reg 8(2).

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5. REGULATION OF MANUFACTURE AND SUPPLY/(3) INTOXICATING LIQUOR OTHER THAN SPIRITS/(ii) Wine and Made-wine/440. Production, storage and removal of wine and made-wine.

440. Production, storage and removal of wine and made-wine.

Save as the Commissioners of Customs and Excise¹ may otherwise allow: (1) wine² or made-wine³ for the production of which a licence⁴ is not required may not be made in a winery⁵; and (2) cider⁶ may not be produced in a winery⁷.

The Commissioners may allow the use in a winery of wine or made-wine in the preparation of, or as ingredients for, goods intended for exportation, shipment as stores or removal to the Isle of Man⁸.

A producer⁹ must, if so required by the Commissioners, place and fix every vessel in which wine or made-wine is produced or stored in a place convenient for examination, and with safe means of access so as to allow the contents to be accurately ascertained by gauge or measure, and must not alter any such vessel in shape, position or capacity unless he has given 48 hours' written notice to the proper officer of Customs and Excise¹⁰. All vessels required to be so fixed must, if so required by the Commissioners, be gauged and calibrated to their satisfaction¹¹.

A producer must keep stock entered for payment or for remission of duty¹² segregated from stock which has been entered neither for payment nor for remission of duty¹³.

Save as approved by the Commissioners, a producer must not send out wine or made-wine from a winery by pipeline¹⁴.

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 For the meaning of 'wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 402; definition applied by the Wine and Made-Wine Regulations 1989, SI 1989/1356, reg 4.

3 For the meaning of 'made-wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 403; definition applied by ibid reg 4. See also PARA 439 note 5 ante.

4 For the meaning of 'licence' see PARA 439 note 1 ante.

5 Wine and Made-Wine Regulations 1989, SI 1989/1356, reg 14(a) (amended by SI 1997/658).

6 For the meaning of 'cider' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 404; definition applied by the Wine and Made-Wine Regulations 1989, SI 1989/1356, reg 4. The meaning of 'cider' is subject to the Alcoholic Liquor Duties Act 1979 s 1(10) (as added) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 401): see the Wine and Made-Wine Regulations 1989, SI 1989/1356, reg 4. As to the manufacture of cider see PARAS 441-442 post.

7 Ibid reg 14(b).

8 Ibid reg 15.

9 For the meaning of 'producer' see PARA 439 note 8 ante.

10 Wine and Made-Wine Regulations 1989, SI 1989/1356, regs 4, 16(1). As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

11 Ibid reg 16(2). As to the duty payable see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 479 et seq.

12 Ie under ibid reg 11(1)(b) (as amended) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 479): see reg 17.

13 Ibid reg 17.

14 Ibid reg 18.

UPDATE

440 Production, storage and removal of wine and made-wine

TEXT AND NOTES 10, 11--SI 1989/1356 reg 16 revoked: SI 2006/1058.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5.
REGULATION OF MANUFACTURE AND SUPPLY/(3) INTOXICATING LIQUOR OTHER THAN
SPIRITS/(iii) Cider/441. Regulation of cider-making.

(iii) Cider

441. Regulation of cider-making.

A person who, on any premises in the United Kingdom¹, makes cider² for sale must be registered with the Commissioners of Customs and Excise³ in respect of those premises⁴. Every person required to be registered⁵ must make application to the Commissioners for registration in respect of his premises⁶. A separate application must be made in respect of each of the premises on which the applicant makes or intends to make cider⁷. Every certificate of registration must be kept at all times on the premises to which it relates, and must be produced for inspection to an officer of Customs and Excise⁸ on demand⁹. A maker must notify the Commissioners of his intention to stop making cider at any of his cider premises¹⁰. A maker must also notify the Commissioners of the discontinuance of trade in cider at any of his cider premises¹¹.

Where the Commissioners are satisfied that a maker has ceased to trade at his cider premises, or that cider is not being made on premises in respect of which he is registered for that purpose, they may cancel the relevant registration at any time¹². Without prejudice to this, the Commissioners may, for reasonable cause, cancel the registration in respect of the premises of any maker, provided that they give three months' notice in writing of such cancellation¹³.

A maker must not begin to make cider on any premises in respect of which he is registered until he has made entry of all rooms, places and vessels intended to be used by him on the premises for that purpose¹⁴. Save as the Commissioners may otherwise allow, a maker must not withdraw his entry in respect of cider premises while there remains in any place specified in the premises any cider on which duty has not been paid or remitted or any materials for making cider¹⁵.

1 For the meaning of 'United Kingdom' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 1.

2 For the meaning of 'cider' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 404.

3 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

4 See the Alcoholic Liquor Duties Act 1979 s 62(2); and CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 505.

5 'Registered' means registered as a maker of cider under *ibid* s 62(2) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 505): Cider and Perry Regulations 1989, SI 1989/1355, reg 4.

6 *Ibid* reg 5(1).

7 *Ibid* reg 5(2). For these purposes, 'cider' has the meaning given by the Alcoholic Liquor Duties Act 1979 s 1(6) (as amended) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 404); but this definition is subject to s 1(10) (as added) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 401): see the Cider and Perry Regulations 1989, SI 1989/1355, reg 4.

The Commissioners may register the applicant in respect of each of the premises in respect of which application is made, and may issue a separate certificate of registration in respect of each of those premises: reg 6(1). The certificate of registration remains the property of the Commissioners: reg 6(2).

8 *Ie* the proper officer of Customs and Excise: see *ibid* reg 4. As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

9 Ibid reg 7(1).

10 Ibid reg 7(2). 'Cider premises' means the premises, rooms, places and vessels entered by a registered maker for use by him in his trade as a maker: reg 4. 'Maker' means a maker of cider who is or is required to be registered: reg 4.

11 Ibid reg 7(3).

12 Ibid reg 8(1).

13 Ibid reg 8(2).

14 Ibid reg 9.

15 Ibid reg 10. As to the duty payable on cider see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 491 et seq.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5. REGULATION OF MANUFACTURE AND SUPPLY/(3) INTOXICATING LIQUOR OTHER THAN SPIRITS/(iii) Cider/442. Production, storage and removal of cider.

442. Production, storage and removal of cider.

Save as the Commissioners of Customs and Excise¹ may otherwise allow: (1) cider² for the making of which registration is not required³ may not be made in cider premises⁴; and (2) wine⁵ and made-wine⁶ may not be produced in cider premises⁷.

The Commissioners may allow the use in cider premises of cider in the preparation of, or as ingredients for, goods intended for exportation, shipment as stores or removal to the Isle of Man⁸.

A maker⁹ must, if so required by the Commissioners, place and fix every vessel in which cider is made or stored in a place convenient for examination, and with safe means of access so as to allow the contents to be accurately ascertained by gauge or measure, and must not alter any such vessel in shape, position or capacity unless he has given 48 hours' written notice to the proper officer of Customs and Excise¹⁰. All vessels required to be fixed in this way must, if so required by the Commissioners, be gauged and calibrated to their satisfaction¹¹.

A maker must keep stock entered for payment or remission of duty¹² segregated from stock which has been entered neither for payment nor for remission of duty¹³.

Save as approved by the Commissioners, a maker must not send out cider from cider premises by pipeline¹⁴.

1 As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

2 For the meaning of 'cider' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 404. See also PARA 441 note 7 ante.

3 As to the requirement to register see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 505. See also PARA 441 ante.

4 Cider and Perry Regulations 1989, SI 1989/1355, reg 14(a). For the meaning of 'cider premises' see PARA 441 note 10 ante.

5 For the meaning of 'wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 402; definition applied by ibid reg 4.

6 For the meaning of 'made-wine' see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 403; definition applied by ibid reg 4. The definition of 'made-wine' is subject to the Alcoholic Liquor Duties Act 1979 s 1(10) (as added) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 403): see the Cider and Perry Regulations 1989, SI 1989/1355, reg 4.

7 Ibid reg 14(b). After the excise duty point no person may carry out any operation on or in relation to cider before it is sold by way of retail (or otherwise supplied for consumption) if that operation would, had it been carried out before the excise duty point, have resulted in a greater amount of duty being payable than was actually payable at the excise duty point: reg 14A(1) (reg 14A added by SI 2001/2449). 'Operation' includes the mixing of cider and the addition of substances (including water) to cider: Cider and Perry Regulations 1989, SI 1989/1355, reg 14A(2) (as so added).

8 Ibid reg 15.

9 For the meaning of 'maker' see PARA 441 note 10 ante.

10 Cider and Perry Regulations 1989, SI 1989/1355, regs 4, 16(1). As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

11 Ibid reg 16(2).

12 le under ibid reg 11(1)(b) (as amended) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 493): see reg 17.

13 Ibid reg 17.

14 Ibid reg 18.

UPDATE

442 Production, storage and removal of cider

TEXT AND NOTES 9-11--Revoked: SI 2006/1058.

Halsbury's Laws of England/INTOXICATING LIQUOR (VOLUME 26 (2004 REISSUE))/5. REGULATION OF MANUFACTURE AND SUPPLY/(4) INDUSTRIAL ALCOHOL/443. Iso-propyl alcohol.

(4) INDUSTRIAL ALCOHOL

443. Iso-propyl alcohol.

Every importer of iso-propyl alcohol making entry¹ at the time of importation must declare in writing, in addition to the particulars required to be stated in the entry, the name and address of the actual consignee².

Every manufacturer of iso-propyl alcohol³ must register⁴ his premises by delivering to the officer of Customs and Excise⁵ for the place in which he manufactures iso-propyl alcohol a statement of his name and the premises at which such manufacture takes place⁶.

Every manufacturer, seller and user of iso-propyl alcohol⁷ must in respect of the specified periods⁸ deliver to the Commissioners within 14 days of the expiration of each of such periods a return in such form as the Commissioners require showing the following⁹:

- 28 (1) in the case of a manufacturer, the total quantity of iso-propyl alcohol manufactured by him during that period¹⁰;
- 29 (2) in the case of a seller (whether he is also a manufacturer or user or not), particulars of each quantity of such alcohol received or sold by him during that period, the date of receipt or sale of each such quantity, and the name and address of the person from whom it was received or to whom it was sold¹¹; and
- 30 (3) in the case of a user (whether he is also a manufacturer or seller or not), particulars of the quantity and date of receipt of each consignment of such alcohol received by him during that period and the name and address of the person from whom it was received and also the purposes for which any iso-propyl alcohol has been used by him and the total quantity used for each purpose during such period¹².

1 See CUSTOMS AND EXCISE.

2 Iso-propyl Alcohol Regulations 1927, SR & O 1927/783, reg 1.

3 See *ibid* reg 4(1).

4 The premises must be registered either within 14 days after the Iso-propyl Alcohol Regulations 1927, SR & O 1927/783, came into force (ie 1 September 1927) or within 14 days after commencing to use any premises for the manufacture of such alcohol: see reg 2.

5 As to officers of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 903 et seq.

6 Iso-propyl Alcohol Regulations 1927, SR & O 1927/783, reg 2.

7 See *ibid* reg 4(1).

8 Ie in respect of the period from 1 September to 31 December 1927 inclusive and in respect of each subsequent half year ending on 30 June or 31 December: see *ibid* reg 3.

9 *Ibid* reg 3.

10 *Ibid* reg 3(a).

11 *Ibid* reg 3(b).

12 Ibid reg 3(c).

UPDATE

443 Iso-propyl alcohol

TEXT AND NOTES - -Revoked: SI 2005/1524.